NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

Congressional Information Service, Inc.
Washington, D.C.

S. Hrg. 99-1020

TO DESIGNATE THE BIG SUR NATIONAL SCENIC AREA AND OTHER MISCELLANEOUS BILLS

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

S. 767

A BILL TO DIRECT THE SECRETARY OF THE INTERIOR TO PERMIT ACCESS ACROSS CERTAIN FEDERAL LANDS IN THE STATE OF ARKANSAS, AND FOR OTHER PURPOSES

S. 2159

A BILL TO DESIGNATE THE BIG SUR NATIONAL FOREST SCENIC AREA

H.J. RES. 666

RESOLUTION EXPRESSING THE SENSE OF CONGRESS IN SUPPORT OF A COMMEMORATIVE STRUCTURE WITHIN THE NATIONAL PARK SYSTEM DEDICATED TO THE PROMOTION OF UNDERSTANDING, KNOWLEDGE, OPPORTUNITY AND EQUALITY FOR ALL PEOPLE

JULY 31, 1986

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE
67-660 WASHINGTON : 1987

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

S311-27

COMMITTEE ON ENERGY AND NATURAL RESOURCES

JAMES A. McCLURE, Idaho, *Chairman*

MARK O. HATFIELD, Oregon
LOWELL P. WEICKER, Jr., Connecticut
PETE V. DOMENICI, New Mexico
MALCOLM WALLOP, Wyoming
JOHN W. WARNER, Virginia
FRANK H. MURKOWSKI, Alaska
DON NICKLES, Oklahoma
CHIC HECHT, Nevada
DANIEL J. EVANS, Washington

J. BENNETT JOHNSTON, Louisiana
DALE BUMPERS, Arkansas
WENDELL H. FORD, Kentucky
HOWARD M. METZENBAUM, Ohio
JOHN MELCHER, Montana
BILL BRADLEY, New Jersey
JEFF BINGAMAN, New Mexico
JOHN D. ROCKEFELLER IV, West Virginia

Frank M. Cushing, *Staff Director*
Gary G. Ellsworth, *Chief Counsel*
D. Michael Harvey, *Chief Counsel for the Minority*

Subcommittee on Public Lands, Reserved Water and Resource Conservation

MALCOLM WALLOP, Wyoming, *Chairman*

LOWELL P. WEICKER, Jr., Connecticut
CHIC HECHT, Nevada
MARK O. HATFIELD, Oregon
PETE V. DOMENICI, New Mexico
FRANK H. MURKOWSKI, Alaska

DALE BUMPERS, Arkansas
JOHN MELCHER, Montana
BILL BRADLEY, New Jersey
JEFF BINGAMAN, New Mexico

James A. McClure and J. Bennett Johnston are Ex Officio Members of the Subcommittee
Tony Bevinetto, *Professional Staff Member*

CONTENTS

Page
S. 767 3
S. 2159 5
H.J. Res. 666 26

STATEMENTS

Allen, Sherry, San Simeon, CA 318
Backer, David, Big Sur, CA 368
Backer, Suzanne Mathis, Big Sur, CA 364
Battaglia, Philip M., attorney, Hearst Corp., Los Angeles, CA 239
Brown, William Ernest, Big Sur, CA 357
Caplin, Michael, president, Coast Property Owner's Association, Big Sur, CA 292
Carver, Robert, president, Big Sur Defense Fund, Carmel, CA 309
Chamberlain, Pat, member, executive committee, Friends of the Big Sur Coast, Big Sur, CA 129
Cranston, Hon. Alan, a U.S. Senator from the State of California 57
Dunlop, George S., Assistant Secretary, Natural Resources and Environment, Forest Service, Department of Agriculture 107
Figen, Janie, Ventana Chapter, Sierra Club, Monterey, CA 174
Fishel, Maddy, national parks program director, the Wilderness Society 182
Galvin, Denis P., Deputy Director, National Park Service, Department of the Interior 64
Greathouse, Jim, Cambria, CA 372
Harlan, John, vice chairman, Friends of the Big Sur Coast, Big Sur, CA 134
Hattoy, Bob, southern California representative, Sierra Club, San Francisco, CA 167
Hayakawa, Hon. Sam I., special adviser to the Secretary of State 28
Hillyer, Saunders C., trustee, Big Sur Foundation 190
Josoff, James, general chairman, Friends of the Big Sur Coast, Big Sur, CA 145
Kauffman, Karin Strasser, supervisor, District 5, Monterey County, Monterey, CA 115
Lyke, Brian, vice president and general manager, Esalen Institute, Big Sur, CA 270
Marek, Donna Grace, Carmel-by-the-Sea City Council, Pebble Beach, CA 127
Newell, Roger, Carmel, CA 340
Notthoff, Ann, resource land use planner, Natural Resources Defense Council, San Francisco, CA 153
Panetta, Hon. Leon E., A U.S. Representative from the State of California 44
Parks, Benjamin, Washington representative, National Inholders Association 373
Perlmutter, Alan, Big Sur, CA 325
Putnam, Larry, Pebble Beach, CA 337
Ramey, Wiley, Jr., Friends of the Big Sur Coast, Big Sur, CA 142
Roberts, Sara, Friends of the Big Sur Coast, Big Sur, CA 138
Trotter, Frank, Big Sur, CA 332
Walling, Paula Anita, Big Sur Coalition, Big Sur, CA 293
Wallop, Hon. Malcolm, a U.S. Senator from the State of Wyoming 1
Wallyn, Dr. Carol, Monterey, CA 372
Wilson, Hon. Pete, a U.S. Senator from the State of California 29
Woolpert, Bruce G., chairman of the board and chief executive officer, Granite Rock Co., Watsonville, CA 277

TO DESIGNATE THE BIG SUR NATIONAL SCENIC AREA AND OTHER MISCELLANEOUS BILLS

THURSDAY, JULY 31, 1986

U.S. Senate, Subcommittee on Public Lands, Reserved Water and Resource Conservation, Committee on Energy and Natural Resources,

Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Malcolm Wallop, presiding.

Present: Senators Wallop, Weicker, Hecht, and Bumpers.

Also present: Tony Bevinetto, professional staff member; and Thomas B. Williams, professional staff member for the minority.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator Wallop. Good morning, ladies and gentlemen. This morning the Subcommittee on Public Lands, Reserved Water and Resource Conservation will hear testimony on the following bills:

S. 767, to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes;

S. 2159, to designate the Big Sur National Forest Scenic Area; and

House Joint Resolution 666, expressing the sense of the Congress in support of commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people.

I will place a copy of each of these bills in the hearing record.

The hearing record will remain open for 2 weeks after today—I am going to change that to 3 weeks after today; I think given the nature of the Big Sur legislation, we will need time for responses to written questions—during which time written testimony on any of these measures can be submitted to the subcommittee.

In the interests of time, I would ask the witnesses to limit their oral statements to 3 minutes. Please keep an eye on my lighted timer here. When you see the yellow light come on,, you will know that you have about 1 minute remaining to speak. Please begin to make your concluding remarks at that time, and when the red light comes on please finish your thought and then stop.

Additional written comments may be provided and the entire testimony, oral and written, will be included in the record. I realize that 3 minutes is a short period of time for people who have come all the way from California, but that is precisely the reason why we have it and I feel that those who come at the end of the hearing are entitled to be heard with as much attention as those at the beginning. And it has been my experience, with legislation like this, that occasionally some of those last few have to catch airplanes and don't get to testify at all.

So it is in the interest of trying to hear everybody and to give everyone the opportunity to appear that we make this limitation.

[The texts of the bills follow:]

II

99TH CONGRESS
1ST SESSION

S. 767

To direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 28 (legislative day, FEBRUARY 18), 1985

Mr. BUMPERS introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Notwithstanding any other provision of law, the Secretary of the Interior shall permit access across the Buffalo National River (hereinafter referred to as "the park") to certain privately owned lands outside the park boundary along a route known locally as the "Old Springtown Road" as depicted on a map entitled "Old Springtown Road Access", dated March 1985, and available for inspection in the Office of the Superintendent, Buffalo National River.

(b) The Secretary shall permit such access across the park solely for the purpose of providing to the owners (as of March 1, 1985) reasonable ingress and egress to the private residential property depicted on the map referenced in subsection (a).

(c) The Secretary shall promulgate such regulations as he deems necessary to ensure that such access does not unreasonably diminish the scenic, historic, and other values for which the park was established.

○

II

99TH CONGRESS
2D SESSION

S. 2159

To designate the Big Sur National Forest Scenic Area.

IN THE SENATE OF THE UNITED STATES

MARCH 7 (legislative day, FEBRUARY 24), 1986

Mr. WILSON (for himself and Mr. CRANSTON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To designate the Big Sur National Forest Scenic Area.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Big Sur National Forest Scenic Area Act".

SEC. 2. The Congress finds and declares that—

(a) the Big Sur coast is a unique national treasure that represents the most spectacular meeting of undeveloped land and sea in the coterminous United States;

(b) over three million visitors annually travel California State Highway Route Numbered 1 along the Big Sur coast to view the unparalleled scenic vistas available along the seventy mile stretch of coast;

★(Star Print)

(c) the unique beauty of the Big Sur coast is enhanced by the unobstructed view of the Pacific Ocean and its horizon;

(d) the existing character of the Big Sur coast and the existing rural communities which have contributed to the maintenance of the natural environment should be protected and preserved;

(e) the State of California and its local units of government have authority to prevent or minimize adverse uses of the Big Sur coast and adjacent inland areas and can, to a great extent, protect the health, safety, and general welfare by the use of such authority and have done so in the adoption of Big Sur Coast Land Use Plan (dated November 5, 1985); and

(f) in addition to the land-use controls referenced in the preceding paragraph, effective protection of the existing character of the Big Sur coast and of the nationally significant natural and scenic resources, and enjoyment of these resources, can be accomplished by appropriate management of Federal lands and interests in the Big Sur coast area.

SEC. 3. The purposes of this Act are—

(a) to protect, preserve, and enhance the unique and significant natural resources and scenic qualities of the Big Sur coast, including, but not limited to, sensitive habitats and habitat for rare and endangered species, redwood canyons, beaches, fresh and marine waters, and the view from California State Highway Route Numbered 1, the Old Coast Road, and other significant public vista points; and

(b) to provide for and manage public use and enjoyment of the area in a manner consistent with natural resource protection and maintenance of the existing rural landscape; and

(c) to define the Federal role in the management of the Big Sur coast in a manner which maximizes coordination with the State and local units of government and private landowners, utilizes existing levels of jurisdiction and establishes appropriate governmental coordination and authority where necessary to accomplish the purposes of this Act.

SEC. 4. The Big Sur coastal area within and adjacent to the Los Padres National Forest in the State of California is hereby designated as the Big Sur National Forest Scenic Area (hereafter in this Act referred to as the "Scenic Area") as depicted on a map entitled "Big Sur National Forest Scenic Area" number and dated March , 1986. Such map shall be on file and available for public inspection in the office of the Forest Supervisor, Los Padres National Forest and in the office of the Chief of the Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") may make minor revisions in the boundary of the Scenic Area after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such notice shall be published and submitted at least sixty days before the revision is made.

SEC. 5. (a) The Secretary, acting through the Chief of the Forest Service, shall administer all Federal lands located in the Scenic Area as a separate unit within the boundary of the Los Padres National Forest in accordance with the laws, rules, and regulations applicable to the National Forest System, except as hereinafter provided.

(b) Subject to the provisions of subsection (h) of this section, the Secretary shall provide for recreational use of all Federal lands within the Scenic Area and shall provide recreational and interpretive facilities (including trails and campgrounds) for the use of the public which are compatible with the purposes of this Act, and may assist adjacent affected local governmental agencies in the development of related interpretive programs. The Secretary shall permit the full use of the Scenic Area for scientific study and research study and research in accordance with such rules and regulations as he may prescribe.

(c) The Secretary shall promulgate such rules and regulations as necessary regarding the use of motorized equipment for recreational purposes for the protection of the Scenic Area's natural and cultural resources: *Provided,* That existing motorized recreational uses, as of the date of enactment of this Act, shall be permitted at the levels and locations customarily exercised.

(d) Except as specifically provided in this subsection, no commercial timber harvesting shall be permitted on Federal lands within the Scenic Area, but the Secretary shall permit the utilization of wood material such as firewood, posts, poles, and Christmas trees by individuals for their domestic purposes under such regulations as he may prescribe to protect the scenic, natural and cultural resources of the Scenic Area. The Secretary may take action including the use of commercial timber harvest to the minimum extent necessary to control fires, insects and diseases that might (1) endanger irreplaceable features within the Scenic Area, or (2) cause substantial damage to significant resources adjacent to the Scenic Area.

(e) The Secretary shall permit grazing on Federal lands within the boundary of the Scenic Area on such lands as currently under permit, consistent with other applicable law.

(f)(1) Subject to valid existing rights, federally owned lands and interests therein within the Scenic Area are withdrawn from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

(2) Subject to valid existing rights, all valid mining claims located on Federal lands within the Scenic Area shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural and other resources of the Scenic Area, and any patent which may be issued after the date of enactment of this Act shall convey title only to the minerals together with the rights to use the surface of lands for mining purposes subject to such reasonable regulations.

(g) The Secretary shall permit hunting and fishing on Federal lands and waters within the Scenic Area in accordance with applicable Federal and State law, except that the Secretary may designate zones within the Scenic Area where, and establish periods when, no hunting or fishing shall be permitted for reasons of public health and safety, the protection of resources, or public use and enjoyment.

(h) The lands within the Scenic Area designated as the Ventana Wilderness Area by Public Law 91-58 and Public

Law 98–425 shall be administered in accordance with the provisions of the Wilderness Act (78 Stat. 890).

(i) Within three years after the date of enactment of this Act, the Secretary shall submit to the committees referred to in section 4(b) a detailed and comprehensive management plan for the Scenic Area. The plan shall include but not be limited to—

(1) indications of types, locations, and general intensities of development and access routes associated with the public understanding, use, and enjoyment of the Scenic Area;

(2) identification of, and implementation for, visitor carrying capacities of the Scenic Area;

(3) identification of, and implementation plans for protection of, natural, historic, and culture resources in the Scenic Area;

(4) implementation plans for providing public information on and interpretation of the Scenic Area, including a program to educate the public about the appropriate uses of the area; and

(5) implementation plans for protection of the historic agriculture uses of existing agriculture lands.

Sec. 6. (a) There is hereby established the Scenic Area Advisory Board (hereinafter referred to as the "Board"). The

Secretary shall consult with and seek the advice and recommendations of the Board with respect to—

(1) the administration of the Scenic Area with respect to policies, programs, and activities in accordance with this Act;

(2) the preparation and implementation of the comprehensive management plan; and

(3) the acquisition of lands and interests therein pursuant to the provisions of this Act.

(b) The Board shall be composed of nine members appointed by the Secretary as follows:

(1) one representative of the United States Forest Service;

(2) one representative from the California Resources Agency, appointed from among individuals recommended by the Governor of California;

(3) one representative from the California Coastal Commission appointed from among individuals recommended by the Chairman of the California Coastal Commission;

(4) three representatives appointed from among individuals recommended by the Monterey County Board of Supervisors;

(5) one representative appointed from among individuals recommended by the San Luis Obispo County Board of Supervisors;

(6) one representative who resides in the Scenic Area; and

(7) one representative at large from the State of California.

(c) The terms of the representatives serving on the Board shall be for three years, except that the initial terms for the representatives shall be established by the nominating authority in accordance with the following:

(1) One of the representatives nominated by the Monterey County Board of Supervisors shall serve for a term of two years, and two of such representatives shall serve for terms of three years.

(2) The representative nominated by the San Luis Obispo County Board of Supervisors shall serve for a term of three years;

(3) One representative nominated by the Governor of the State of California shall serve for a term of two years and one shall serve for a term of three years;

(4) Two representatives nominated by the Secretary shall serve for a term of two years and one shall serve for a term of three years.

(d) The members of the Board shall be appointed within ninety days of the date of enactment of this Act. The representative of the United States Forest shall serve as Chairman of the Board.

(e) The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to the administration of the Scenic Area. To the maximum extent practicable, all meetings of the Board shall take place within the Scenic Area.

(f) Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Board and its members in carrying out their duties under this Act.

(g) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(h) A majority of those members appointed shall constitute a quorum for the conduct of all business of the Board.

SEC. 7. (a) The Secretary is hereby authorized to acquire all lands and interests therein within the boundary of the Scenic Area by donation, exchange, or purchase with donated funds obtained pursuant to the provisions of this Act, except that any lands or interests therein owned by the State of California or any political subdivision thereof may be acquired only by donation or exchange.

(b) lands or interests therein within the boundary of the Scenic Area which are not owned by the State of California or any political subdivision thereof may be acquired only with the consent of the owner thereof or by condemnation, subject to the provisions of subsection (c).

(c)(1) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all non-Federal property within the Scenic Area during all times when the State of California or any political subdivision thereof (including the County of Monterey) shall have in force and applicable to such property a duly adopted, valid land use plan which the Secretary determines to be consistent with the purposes of this Act (hereinafter referred to in this Act as Plan): *Provided,* That the Big Sur Coast Land Use Plan, as approved by the California Coastal Commission on January 9, 1986, shall be considered to be such a Plan consistent with the purposes of this Act: *Provided however,* That such suspension shall not apply—

(A) to any lands which become subject of a variance under, or become for any reason an exception to, such Plan;

(B) any lands which are specifically identified by the County of Monterey in writing to the Secretary requesting the Secretary to acquire such land; or

(C) in the event that a change in the Plan is determined by the Secretary to be inconsistent with the Plan. In the event of such determination, lands or interests therein within the boundary of the Scenic Area which are not owned by the State of California or any political subdivision thereof may be acquired without the consent of the owner if the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is inconsistent with the Plan.

(2) In order to carry out the provisions of this subsection, the Secretary shall issue regulations, which may be amended from time to time, specifying standards by which the Secretary shall determine what changes in the Plan will be considered to be inconsistent with the purposes of this Act. The standards specified in such regulations shall have the object of preserving the scenic, natural and cultural resources of the Scenic Area, including the critical viewshed as defined in the Plan.

(d) The owner of any property on the date of its acquisition, as a condition of such acquisition, may retain for herself or himself, her or his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or agriculture purposes, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of her or his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this section, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(e) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or any interest therein, located within the Scenic Area, and in exchange for such property or interest, may convey to the grantor any federally owned property under the jurisdiction of the Secretary within the State of California which the Secretary classifies as suitable for exchange or disposal. The values of the properties so exchanged shall be equal, or, if not equal, shall be equalized by the payment of cash to the grantor or to the United States, as the circumstances require. In the exercise of the authority to exchange property, the Secretary may utilize authorities and procedures generally available to him in connection with the exchange lands.

(f) The Secretary shall give priority to the acquisition of lands and interests therein within the boundary of the Scenic Area on the basis of—

(1) Any offer made by an individual owning property within the Scenic Area to sell such property, if such property is located within the critical viewshed as defined in the Plan; and

(2) Any offer made by an individual owning property within the Scenic Area to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

SEC. 8. During all times that a Plan is in effect, the Secretary shall convey without consideration all lands acquired within the boundaries of the Scenic Area, but outside of the Los Padres National Forest boundary, to the County of Monterey unless the Secretary determines that these lands can more efficiently be managed by the Los Padres National Forest. Any such conveyances shall remain in public ownership and shall be subject to such terms and restrictions as the Secretary deems necessary to be consistent with the purposes of this Act, and shall retain an appropriate reversionary interest in the event that the property, in the judgment of the Secretary, is threatened with development, or is being developed, in a manner inconsistent with the Plan.

SEC. 9. (a) There is established the Big Sur Coast Trust (hereinafter in this Act referred to as the "Trust"). The Trust is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) The purposes of the Trust are to encourage, accept, and administer private gifts of real and personal property or any income therefrom or other interest therein for the purpose of acquiring lands or interests therein within the boundaries of the Big Sur National Forest Scenic Area pursuant to the provisions of this Act.

(c) The Trust shall have a governing Board of Directors (hereinafter referred to in this Act as the "Board") which shall consist of nine Directors, each of whom shall be a United States citizen. The Chief of the Forest Service shall be an ex officio nonvoting member of the Board. Appointment to the Board shall not constitute employment for the purposes of any Federal law.

(d) Within one year of enactment of this Act, the Secretary shall appoint the Directors of the Board. The Directors shall be appointed for terms of six years; except that the Secretary, in making the initial appointments to the Board, shall appoint three Directors to a term of two years, three Directors to a term of four years, and three Directors to a term of six years. A vacancy on the Board shall be filled within sixty days of said vacancy in the manner in which the original appointment was made.

(e) The Chairman shall be elected by the Board from its members for a two year term.

(f) A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(g) The Board shall meet at the call of the Chairman at least once a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (d).

(h) Members of the Board shall serve without pay, but may be reimbursed from the resources of the Trust for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Trust.

(i) The Board may complete the organization of the Trust by—

(1) appointing officers and employees;

(2) adopting by-laws, rules and regulations consistent with the purposes of the Trust and the provisions of this Act; and

(3) undertaking of other such acts as may be necessary to carry out the provisions of this Act.

(j) Officers and employees may not be appointed until the Trust has sufficient funds to pay them for their service. Officers and employees of the Trust shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(k) The Secretary may provide personnel, facilities, and other administrative services to the Trust, including reimbursement of expenses under subsection (h), not to exceed then current Federal Government per diem rates, for a period of up to five years from the date of enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

(l) The Secretary may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Trust, the Board, and the officers and employees of the Board, without compensation from the Department of Agriculture, as volunteers in the performance of the functions authorized therein.

(m) The rights and responsibilities of the Trust shall be as follows:

(1) The Trust shall have perpetual succession.

(2) The Trust may conduct business throughout the several States, territories, and possessions of the United States.

(3) The Trust shall have, in addition to the powers otherwise given it under this Act, the usual powers of a corporation acting as a trustee, including the power—

(A) to accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(B) to acquire by purchase or exchange any real or personal property or interest therein;

(C) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(D) to borrow money and issue bonds, debentures, or other debt instruments;

(E) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence; and

(F) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its function.

(n) The Trust shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(o) As soon as may be practicable after the enactment of this Act, the Secretary shall enter into a Memorandum of Agreement with the Trust (hereinafter in this Act referred to as the "MOA"). The MOA shall serve to define the relationship between the Trust and the Secretary, and shall include the following provisions—

(1) subject to requirements for the daily operation of the Trust, the Trust shall convey to the Secretary all funds, materials and services for land acquisition by the Secretary in the Big Sur National Forest Scenic Area pursuant to provisions of this Act. The Secretary, or his designee, shall have sole and exclusive authority

over the expenditure of all funds raised and made available to him by the Trust: *Provided*, That in the Secretary's discretion to use funds from the Trust, any encumbrances on any donation to the Trust shall be recognized by the Secretary.

(2) The Trust shall convey title to the Secretary upon receipt of all donations of land and interests therein received by the Trust.

(p) The Trust and any income or property or interest therein received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. Contributions, gifts, and other transfers made to or for the use of the Trust shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(q) The United States shall not be liable for any debts, defaults, acts, or omissions of the Trust.

(r) There is hereby authorized to be appropriated to the Secretary not more than $500,000 for the establishment of the Trust.

SEC. 10. (a) Submerged lands of the California Outer Continental Shelf described in subsection (b) are hereby withdrawn from oil and gas leasing and development.

(b) Lands to which this section shall apply are within an area of the Department of the Interior Central California

Planning Area bounded by the following line on the California (Lambert) Plane Coordinate System: From the point of intersection of the line between the row of blocks numbered N 825 and N 826 and the seaward boundary of the California State Tidelands west along said line to the point of intersection with the line between the row of blocks numbered E 122 and E 123; thence northwest to the point of intersection with the line between N 837 and N 838 and the line between the row of blocks numbered E 112 and E 113; thence north to the point of intersection with the line between the row of blocks numbered N 845 and N 846 and the line between the row of blocks numbered E 111 and E 112; thence east along the line between the row of blocks numbered N 845 and N 846 to the point of intersection with the seaward boundary of the California State Tidelands; thence southerly along the seaward boundary of the California State Tidelands to the point of beginning.

○

II

99TH CONGRESS
2D SESSION

H. J. RES. 666

IN THE SENATE OF THE UNITED STATES

JULY 14, 1986

Received; read twice and referred to the Committee on Energy and Natural Resources

---

JOINT RESOLUTION

Expressing the sense of Congress in support of a commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity and equality for all people.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Council for Education and Economic Development, Inc., a private nonprofit organization having for its primary purposes examination of the economic, constitutional, legal and social conditions and ramifications of slavery; the history of Afro-Americans; promotion of education and understanding among all people of the American slave experience and its role in the history of the United States;

and elimination of barriers of every kind and nature to learning and opportunity faced by Afro-American, minority, poor and other children, is deserving of encouragement and support of the American people in its program to raise an endowment to assure a permanent location of a commemorative structure within the National Park System, or on other Federal lands, dedicated to understanding, knowledge, opportunity and equality for all people.

Passed the House of Representatives June 26, 1986.

Attest: BENJAMIN J. GUTHRIE,
Clerk.

Senator WALLOP. We will begin. Since Senator Cranston and Senator Wilson are not here, let me begin then with Senator Hayakawa. And then if the other two Senators have not come, we will begin with the administration witnesses.

Sam, it is a great pleasure to welcome you to this committee.

Mr. HAYAKAWA. Thank you, Senator Wallop. Shall I take this seat? Are these all working?

Senator WALLOP. Anywhere where there is a microphone.

Sam, you have chosen the seat with things to bother your feet. But that is all right.

STATEMENT OF HON. SAM I. HAYAKAWA, SPECIAL ADVISER TO THE SECRETARY OF STATE

Mr. HAYAKAWA. Thank you very much, Mr. Chairman, for this opportunity to present the case for not federalizing Big Sur. I am not going to speak today as a politician but as one who is a participant, has been a participant in seminars and in intellectual and cultural life of the Big Sur area, especially through Esalen Institute, which is the institute that brings together so many interesting people to lecture there, to bring their disciples together, and next week there will be a conflicting group of disciples to quarrel with the first group of disciples and so on. It is a fascinating place. But let me start by telling you about some of the people who have enriched that area, who have come there because of the atmosphere of total intellectual and artistic freedom and friendly neighbors that make this an attractive place.

Let me give you, first of all, a list of some fine authors who have written and lived there like Henry Miller, who wrote "Big Sur and the Oranges of Heironymus Bosch," a strange novel.

Jack Kerouac who wrote a novel called "Big Sur," which is entirely about Big Sur and its lifestyle and the friends he made there.

Jack Curtis, "Eagles Over Big Sur," and a collection of short stories.

Richard Brautigan, "Confederate General of Big Sur."

Robinson Jeffers, who lived not far away from Big Sur and wrote about Big Sur, among other things.

Then there is Lillian Bos Ross, "Stranger in Big Sur," Terry Newberry, who wrote "Forward, Ho," and then there are women who write romantic novels—not necessarily about Big Sur, but they draw much of their inspiration and enjoy their surroundings there so much that this is where they do much of their writing. I refer especially to Phyllis Whitney and to the very famous Rosemary Rogers, who turns out wonderful sexy romances at a terrific rate. But these are just some of the people who are there.

At Esalen Institute, you have an intellectual life of an extraordinary kind, in which philosophy, psychotherapy, and psychology all come together. And such fascinating people as Alan Watts, the American explainer of Zen Buddhism; Fritz Perls, the great psychiatrist; Gregory Bateson, the anthropologist; Abraham Maslow, the founder of a whole school of thought in psychotherapy about fully functioning personality.

Richard Price, one of the founders of Gestalt therapy. Virginia Satir. The historian Arnold Toynbee has been there to lecture.

Aldous Huxley has been there. The anthropologist Margaret Mead, Linus Pauling, Richard Feinman. And along with them, there are poets and painters and musicians all finding a creative atmosphere where they can associate with others or live completely alone, but they have a place where they can let their creative juices flow and live a life that is conducive to that kind of individualism. And it satisfies profoundly their desire to be left alone, whatever their theories, whatever their artistic projects, and to have company if they want it.

That is the kind of atmosphere that is at the heart of more famous areas of creativity, like Greenwich Village. But it is a rural Greenwich Village, a much more beautiful place without quite as many riff-raff. And Paris' Left Bank. These are creative places where people get together but it is unique in that they get together in this wonderfully incredibly beautiful place which they enjoy together.

And to federalize it, I would say would be a terrible mistake. I have said so before. I have fought for the freedom for the Big Sur area in 1980 and 1981 and I still fight for that freedom because it is a very, very important expression of the cultural life of California and the United States to have such a place unencumbered by Federal regulation and Federal oversight.

The people there are able to do it for themselves. And this is why I want to preserve that local autonomy as much as I can.

Thank you, Mr. Chairman.

Senator WALLOP. Thank you, Sam, I appreciate your taking the time. I understand that this is, if not the day, at least the week of your birthday, and we wish you a happy birthday.

Mr. HAYAKAWA. Yes, it is. Thank you ever so much, Mr. Chairman.

Senator WALLOP. Senator Wilson, do you have an opening statement?

STATEMENT OF HON. PETE WILSON, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator WILSON. Yes, I have, Mr. Chairman, but you have preempted me. I wanted first to wish my friend a very happy birthday and to remind him that we are having a party for him this afternoon and we hope that you, Mr. Chairman, and Senator Hecht and others will be there.

Mr. Chairman, first let me begin with a very personal expression of thanks to you for scheduling today's hearing in the very demanding days of this 99th Congress. That in itself suggests the importance of this legislation and, more importantly, the vital need that we develop adequate protection for the atmosphere and the difficult-to-define quality of Big Sur, which Senator Hayakawa has just addressed with obvious feeling and eloquence.

There is obviously a need to try to at least develop a consensus on how it is that we are to provide this protection. I think that those in this room, though they be divided on how best to achieve it, are of almost a single mind with respect to the great need to see to it that in fact this uniquely beautiful scenic area is protected and it is under pressure.

As I listen to my friend and heard him state wistfully the desire of a number of famous authors and composers and artists to be left alone, the fact, Mr. Chairman, is that in California and particularly in the coastal zone and particularly in the area that we are concerned with, there is little likelihood that we are going to be left alone.

We are here to consider a piece of Federal legislation which has as its purpose the effectuation and the preservation of a very important local initiative. It is the centerpiece for all that we are attempting to do. I refer, of course, to the Big Sur Coast Land Use Plan.

Carefully crafted over the better part of a decade and widely accepted and hailed as wise and fair, the Land Use Plan was recently approved by the County Board of Supervisors of Monterey County and the State Coastal Commission.

I view this excellent plan as a desirable alternative to the kind of complete Federal takeover of this majestic segment of the California coast that has been earlier proposed. I am sure this committee will recall earlier proposals, one very nearly enacted into law which would have established a Big Sur Area entirely under Federal ownership and Federal regulation.

I opposed that idea as a candidate for the Senate in 1982. And now that the Big Sur coast land use plan, which was then in prospect, has become a reality, I remain convinced that a limited and very strictly conditioned exercise of Federal authority is all that is required to assure that the protections given to Big Sur by the land use plan are safeguarded against changes which would seriously threaten the existing character of the Big Sur coast.

Indeed, the only Federal acquisitions authorized by this bill are to be in implementation of the county's plan and are required to be offered to the county, in contrast to the sweeping wholesale condemnation of earlier proposals.

This bill will result in little, if any, expanded Federal ownership, and none unless the county refuses the offer of properties acquired by the Forest Service.

What the county's land use plan accomplishes in lieu of the "federalization" of Big Sur that was earlier proposed is a comprehensive restriction on the development of 55,000 acres of Big Sur territory now in private hands.

Yet as impressive as this land use plan is, there are limits—obvious jurisdictional limits—on what the county can accomplish alone for the obvious reason that the county lacks jurisdiction over the 75,000 acres of United States Forest Service lands abutting the 55,000 acres of private property over which the county does exercise jurisdiction. Only Congress is empowered to determine and to regulate the use and the management of these Forest Service lands.

This bill, to assure the integrity of the LUP, mandates that no use be made of these adjoining Federal lands that is in any way not in conformity with uses permitted by the land use plan. It bans mining, logging, oil and gas leasing, resort and other land development and, I repeat, any uses that are inconsistent with the county's land use plan. It requires the Forest Service to determine the validity of any existing mining claim.

A second and equally important, equally necessary and very, very carefully delimited Federal role is to provide the greatest possible assurance of the survival of today's excellent plan in the very possibly changed political climate of the future. A plan so well and wisely crafted, one so hard wrought, should be honored in its observance, not in its breach. But boards change. Policies then change. And finally plans—even those once celebrated and widely accepted—can change as well.

Now what of this fine plan? What is its life expectancy? Two years? Ten? Twenty? Mr. Chairman, Big Sur, in my judgment is of such enduring value that it demands of us that we provide protections commensurate with that enduring quality and value.

Having established a symbiotic relationship between the locally devised plan and the federally supervised Forest Service, the bill goes an important step further. How? By enlisting the Forest Service itself as an important backup to the existing land use plan. I emphasize "backup" because as long as today's plan remains in effect, the Forest Service would have no role to play in managing any private lands in Big Sur. The county will remain sovereign and the county-approved land use plan would continue to govern this priceless natural resource.

But Nature's handiwork, having endured and survived from prehistoric times, can be destroyed overnight as the result of a change in political attitudes, the result of a change in composition of the membership of the board of supervisors or of State coastal commissions. We Americans have long taken pride in the assertion that ours is a government of laws, not of men. But as the composition of the boards of supervisors and State coastal commissions change, so can their mandates.

And if Big Sur is what we claim it to be—what Senator Hayakawa and I and the other witnesses from whom you will hear today believe it to be—then its value to our own generation demands that we preserve it to pass it on intact to generations yet unborn.

Those who set aside the acreage that we know today as the magnificent Yellowstone Park exercised the wisdom and foresight that excites our admiration and gratitude. They had the vision to protect precious natural beauty from the axe blade and the bulldozer long, long before it was actually threatened.

But we are not talking about a park use; we are talking about something far more limited. And by contrast, the threat of injurious development of Big Sur arising from pressures of ever increasing population growth and ever increasing tourism, is not remote as it was in the time when Yellowstone was set aside. It is real and imminent, a clear and present danger.

And so I propose that we together in this room do our best to guarantee a legacy that only God can create and that only humans can protect against destruction by other humans. If the Big Sur coast land use plan is all that we think it is and we claim it to be, then let us commit to safeguarding it against weakening change.

The bill provides that if anyone attempts to attach weakening amendments to the land use plan at some point in the future and if such amendments should somehow receive approval from that future board of supervisors or from that future State coastal commission, then, and only to acquire property threatened with development otherwise prohibited under the existing land use plan, would the Forest Service be empowered to exercise the right of condemnation to prevent the prohibited use.

And of course no such trigger would operate should tomorrow's supervisors decide instead to strengthen the land use plan or to streamline the administrative procedures or to place it on a sounder financial basis or undertake other actions which do not have the effect of encouraging inconsistent undesirable development.

In the environmental drama at hand, then, the Forest Service is an entirely contingent player. Only if someone were to convince State and county officials to accept weakening amendments to the land use plan, then before he could construct, he would find himself confronting the Forest Service as the final test.

This final safeguard must be in place. Even if it is never required to actually avert peril, its very existence will serve to discourage attempts to make endangering change. Every effort must be taken to assure that the lofty grandeur extending from Carmel to San Luis Obispo endures from now through all of time.

As the mayor of San Diego for 11 years and a former President of the League of California Cities, I have long often and stoutly defended local land-use decisionmaking against Federal and State overreaching. But where a land resource is uniquely valuable so as to claim a constituency far beyond that of its locality, the greater responsibility of such land use decisionmaking should and must be shared more broadly. That is the whole point that gave rise to the State Coastal Commission and unfortunately did not do so until too many areas that once were real treasures had been lost through purely local decisions that permitted unwise development.

The proposed legislation contains a number of additional provisions, broadly designed to maximize local input and assist the county in carrying out its painstakingly devised land use plan.

For one thing, it would establish a local advisory group to help guide the Forest Service in the management of the Federal Big Sur property.

For another, it creates a Big Sur Trust Fund for receipt of donations and authorizes the Forest Service to purchase Big Sur lands with such donated funds, should willing seller meet willing buyer, to give that willing buyer some wherewithal to make purchase. And take special note that the bill directs that any land so acquired must be offered to be conveyed to the county so that title would go to the county of any real estate so purchased by the Forest Service.

Indeed, this stipulation is proof positive that there can be no expanded Federal ownership unless the county declines the offer, contrary to the false fears of those who would misinterpret the bill as a vehicle for federalization of the area.

We do not need expanded Federal ownership in Big Sur. We will benefit, however, from needed Federal cooperation and assistance, including help in implementing certain land aquisitions that have been expressly earmarked by the county in its land use plan.

Mr. Chairman, let me say a special word to those local residents of Big Sur who, understandably, are justly proud of their long tradition of wise conservation of the unique beauty of that special place. To them I want to say two things:

First, a very sincere thanks to the stewardship that has preserved Big Sur not only for its own children, but for those of us who have been fortunate and awestruck visitors.

Second, the time has come or will come at any moment when those of you who have fought that valiant battle must have all the help that the law can give in order to continue to preserve Big Sur further against far greater and ever-growing threats from the pressures that are threatening irreparable injury.

Every demographic survey that you can see portends that kind of pressure and that potential injury. No bill is perfect, even in the eyes of its authors. The purpose of this hearing is to correct such imperfections as this bill may contain. Above all else, it is an important valuable oportunity to air grassroots opinions. Hopefully, it will dispel some of the fears and misconceptions of those who have misinterpreted this bill's intent and its contents.

Having said this, I know we will hear from some who quite sincerely believe that any role—even the minimal and essential Federal presence proposed by this bill—will lead to an unacceptable increase in visitors to Big Sur. Some very genuinely believe that the mere designation of any area as being in some way Federal will draw to the area double or triple the number of visitors who would otherwise come.

I share their concern that the carrying capacity of this fragile area that we call Big Sur not be exceeded. In response, let me introduce into the record a letter from the Forest Service dated May 27, 1986, which reports the visitor impact following designation of seven national recreation areas and concluded:

> In general the information illustrates that visitor use did not change significantly after Congressional designation when the area was already well-known and many new facilities were not added. . . . As the Big Sur area is well-known and receives substantial visitor use, and as many new facilities are not essential for management of the area, the enclosed information and our experience leads us to conclude that designation of Big Sur Scenic Area would not result in a significant increase in visitor use.

Before I finish, I would also like to introduce into the record a number of favorable editorials from throughout the State, including some from major periodicals, the Los Angeles Times and others.

Mr. Chairman, I conclude, as I began, with gratitude for the work of this committee. It is overworked. You, sir, I know to be overworked. We are fortunate that you have been granted a reprieve from the tax reform conference. This is a great way to celebrate your day off. [Laughter.]

It is with a hope that the final result of the labors of those in this room will assist you in your labors that I say to you that I think that we can and that we must achieve an effort that will reward not only Californians but occasional visitors from Wyoming and that will result in what has been called by the Los Angeles Times a model of what a coastal protection plan should be.

Thank you very much, Mr. Chairman.

[The editorials submitted by Senator Wilson follow:]

OAKLAND, CA.
TRIBUNE
5-11-86

The Battle for Big Sur

California's two senators, Republican Pete Wilson and Democrat Alan Cranston disagree on many political issues. But one matter on which the two men enjoy complete accord is the need to preserve the white beaches, redwood-clad mountains and breathtaking cliffs of Big Sur.

That's why Cranston is happy to cosponsor a bill Wilson has introduced to grant national scenic protection to the majestic, 70-mile stretch of Central California coastline, even though his own bill on the same issue went down to defeat six years ago.

The earlier bill "was frustrated by the unyielding opposition of former (Republican) Sen. Sam Hayakawa," Cranston said last week. "Now we have a different junior senator from California and I am glad he is battling to protect Big Sur."

All Californians should share his pleasure. Of the many awesome scenic wonders in a state resplendent with natural resources, Big Sur is one of the most spectacular.

But its very magnificence draws 3 million to 4 million visitors a year, who create pressure for more tourist accommodations. Wilson's bill puts federal clout behind a plan already approved by Monterey County, within which Big Sur lies, to allow a reasonable number of additional tourist facilities while protecting the region's wild beauty. Wilson can't go wrong in sponsoring legislation that meets so obvious and worthwhile a public need.

Under the bill, primary responsibility for safeguarding Big Sur would go to the U.S. Forest Service, which manages more than half the area now. Within a scenic area extending from 20 miles offshore to three miles inland, the bill would:

- Bar new logging, mining claims or grazing privileges within national forest lands and prohibit oil and gas drilling in offshore waters.
- Incorporate a Big Sur coastal plan, already adopted by Monterey County and substantially approved by the California Coastal Commission, as the basic scenic protection system for the area. The plan would allow the existing number of houses to double to 1,600 and overnight lodging units to increase from 165 to 300, as long as new buildings aren't visible from Highway 1.
- Establish an eight-member Big Sur Trust Fund, similar to foundations for the National Parks Service and other outdoor agencies, to raise funds to buy undeveloped private property within the Big Sur area and turn it over to Monterey County to manage.

Properties would be bought only from willing sellers, only where county officials had weakened the local coastal plan to allow development projects that endanger the integrity of the plan, and only if the county wanted to manage the land, once purchased. "We don't want to be Big Brother and go in there and buy up all the land if the county doesn't want it," a Wilson aide says.

Protection of Big Sur has been a long time coming. It took eight years of hearings, debate and compromise to develop the Monterey County plan that forms the heart of Wilson's bill. Congressional hearings, final action by Congress and a signature from the White House still loom ahead.

But that's a short span of time compared to the eons it took nature to sculpt California's ruggedly beautiful coast. Once the Wilson bill is signed into law, fans of Big Sur and nature lovers everywhere can heave a big sigh of relief.

Protecting Big Sur

The Big Sur Coast is awesome at any time. It is particularly so these sunny spring days. Clusters of bright California poppies cling to steep hill slopes, welcoming visitors along Route 1. Offshore, a late-migrating gray whale lazily flaps northward. Ferns seem to float along the shaded floor of Sycamore Canyon, filigreed arms waving in the breeze and flashing an occasional flicker of sunlight through the sycamores and cypresses. That is the bucolic Big Sur. It lulls and enchants.

At the canyon mouth, the creek meets the rough, powerful Big Sur of pure aquamarine Pacific breakers crashing against rock towers. Wind peels the tops of waves off into streams of spindrift. The cliffs march into the haze of the northern and southern horizons. This Big Sur excites and overwhelms.

The 70-mile-long Big Sur Coast south of the Monterey Peninsula remains one of the nation's longest stretches of wild and undeveloped coast, only rarely interrupted by any intrusive marks of humanity. Today, the 200,000 acres of coast are protected by a stringent new coastal plan adopted by the Monterey County Board of Supervisors that would permit virtually no additional development along the seashore. It is a model of what a coastal protection plan should be.

Now, a law has been proposed in Congress by Sen. Pete Wilson (R-Calif.) to reinforce the county plan through creation of a Big Sur National Forest Scenic Area under the U.S. Forest Service. The bill would protect the federal lands from most commercial development, including logging, mining and offshore oil and gas drilling. It establishes a mechanism for buying coastal lands from willing sellers.

A small but well-organized group of area residents is opposing any "federalization" of the area, although the Forest Service now holds 140,000 acres in the area. But it is clear the overwhelming national interest is in protecting Big Sur against further development. The area may, in fact, merit stronger safeguarding than the Wilson bill would provide. Its grandeur and wildness exceed those of many units of the national parks.

The Wilson bill, however, is a constructive starting point for overdue national recognition of the unparalleled features of Big Sur.

MONTEREY PENINSULA
HERALD
MARCH 14, 1986

Big Sur Emotions

BIG SUR residents are upset that Sen. Pete Wilson didn't at least call them before he unveiled his plan to introduce some measure of federal protection for the Big Sur coast.

Actually, Wilson could have saved himself a whole lot of abuse had he only made one call — to Rep. Leon Panetta, who presumably could have told him that politicians advocating a greater federal presence in Big Sur run the risk of becoming an endangered species.

Six years ago Panetta introduced similar legislation to increase the federal presence in Big Sur; it didn't accomplish much except upset a lot of the folks who live there. And Sen. Alan Cranston, Wilson's counterpart, did the same — twice — in 1980 and 1981.

So even though Cranston says he supports Wilson's newest attempt, we don't think it was an accident that while Wilson faced the music at a Big Sur meeting of county officials and residents last weekend, Cranston hiked along the coast and accepted the plaudits of environmentalists for his past opposition to whaling.

He didn't attend the meeting, he said, because it was "Pete's ballgame." Smart fellow, the senator.

It's too bad that the future of Big Sur — and how best to chart it — is such a volatile issue that politicians have to dance all around it, especially since some of the federal protections Wilson's bill would provide seem to be in Big Sur's best long-term interests.

It would extend protections contained in the county's own Local Coastal Plan for the coast onto federal lands and forbid any new mining, timber harvesting and oil and gas development within Los Padres National Forest. It would leave private property in private hands, and it would ban any offshore oil and gas development within 20 miles of the coastline.

Sen. Wilson has a point when he says that the good work of Monterey County in drafting its LCP for the coast could be negated or circumvented at some point by a future Board of Supervisors. Times change and so do the political winds.

Even so, Wilson's vocal opponents in Big Sur may be right in predicting that his bill has no more chance of passage now than similar attempts did five and six years ago. But none of the antagonists on either side can afford to be so arbitrary that they cannot see the forest for the trees.

HERALD

Josoff and Friends

HAVING TASTED of Jim Josoff's vitriol ourselves and fully expecting it again, we can understand the roots of the latest flap about a leaked memo in U.S. Sen. Pete Wilson's office in which Josoff's Friends of the Big Sur Coast is characterized as a "very nasty" organization.

That the memo's observations touched a nerve can be verified by the fact that Josoff, reached by The Herald in Oklahoma where he is traveling on business, said that he had apologized to the senator for the "tenor of the meeting" with him, but rationalized that Wilson "had to hear the way we felt."

The major difficulty with Josoff and his Friends is that everyone who does not share their viewpoint totally on the Big Sur automatically becomes The Enemy and is written off as some type of environmental predator. Even the late Ansel Adams, whose credentials as a protector of natural beauty were in order before Jim Josoff was even heard of, got his share of criticism in a previous encounter with the Friends.

At this point, we neither fully support or reject what Wilson's bill is attempting to do. But we would remind Josoff and other Big Sur property owners that the major land owner along the Big Sur Coast still is the federal government. That means every man, woman and child in the United States.

And just as the various coastal protection measures enacted by the state of California reflected the attitudes and desires of people from all over the state rather than the relatively small number of property owners along the coast, so will the final judgment on the Big Sur be shaped by the Congress of the United States whenever it feels so inclined.

Consequently, Josoff and the Friends of the Big Sur Coast may find it more beneficial to their long-term objectives to modify their confrontational style. The residents of the area certainly have legitimate concerns, but they should realize that theirs is not the only voice to be heard. There are many friends of the Big Sur Coast who do not consider Jim Josoff to be their spokesman.

WATSONVILLE REGISTER
MAY [illegible], 1986

Preserving Big Sur: How best to do it?

FOR YEARS NOW, people have advanced various plans for preserving the Big Sur coastline. Photographer Ansel Adams promoted the creation of a national park there, but his efforts were stymied by the opposition of then-Senator S.I. Hayakawa.

Sen. Hayakawa has since retired from public life, and Mr. Adams is dead now, but the Big Sur issue still simmers. Earlier this year, it bubbled again when William Penn Mott, director of the National Park Service, made the off-the-cuff suggestion that the area be proclaimed a National Parkway — a scenic highway with some federal protection. Mr. Mott's notion, however, never got beyond the daydream stage.

Now, Sen. Pete Wilson has stirred the pot again, by introducing legislation to create a National Forest Scenic Area in Big Sur, stretching from the southern end of Carmel to the San Luis Obispo County line, an area approximately seventy miles long and three miles wide. Included would be 75,000 acres of Los Padres National Forest, 12,000 acres of State Park lands, and 55,000 acres presently in private hands. With Sen. Cranston as a co-sponsor, this plan has a certain amount of bi-partisan backing — something that earlier proposals have not enjoyed.

What, you may wonder, is a National Forest Scenic Area? It's a fairly new concept, which in some ways resembles park status. It would beef up protection in several areas — in the case of Big Sur, it would prohibit timber harvesting, new mining claims, and oil drilling (both on land and twenty miles out to sea).

However, the proposed legislation would not (according to Sen. Wilson) trigger an immediate, massive buyout of private property. Instead, it would adopt Monterey County's current Local Coastal Plan for Big Sur as federal policy, and give the U.S. Forest Service power to condemn (i.e., take) property only if the property were being developed in a manner inconsistent with that plan. Private property holders who abide by the plan would keep their property. Those who wanted to sell to the government could do so, but the land would not pass into federal hands. Rather, it would be deeded over to the county, the state, or a non-profit land preservation group such as the Nature Conservancy.

- MORE -

WATOSNVILLE REGISTER
MAY 19, 1986
PAGE 2

The net effect of Sen. Wilson's legislation is to lock the current Local Coastal Plan into place, transferring decision-making power from the local government to the federal government, with the federal government having the power to buy out landowners whose development plans are more ambitious than permitted under the current Local Coastal Plan.

This does not sit well with some Big Sur landowners, or with Rep. Leon Panetta, who has raised several objections to the bill. Instead, Mr. Panetta suggests giving stronger funding to enforce the Local Coastal Plan, with the ability to modify that plan remaining at the county level. The offshore oil issue, Panetta feels, should be treated as a statewide issue, rather than in tandem with Big Sur.

We agree with Mr. Panetta on the last point, but we're not so sure about the rest. The Local Coastal Plan covering Big Sur is an admirable document, but we're afraid that it may prove too amendable and erodable over a period of time. The Big Sur coast is a treasure of more than local significance, and it deserves more than local protection. We have some questions about Sen. Wilson's bill — in particular, how it would treat private landowners — but on the whole, we think that it's a step in the right direction.

Time for Decision In Timeless Big Sur

SF EXAMINER
SUNDAY June 29
FR: SR
TO: JBN
DOB
JB

T/C ON 6/30 @ 8:35 A.M./CP

HAROLD GILLIAM

You are sitting on a granite boulder at the foot of a Big Sur canyon, listening to the roar of the creek and the booming of breakers on the cliffs, thinking somber thoughts about the past and future of this place and every wild place on this coastline.

Like most of the canyons on this seaward slope of the Santa Lucia Range, this a steep, V-shaped gorge, and the creek plunges down from the redwood groves above to the rocky beach in a series of whitewater cascades, interspersed with occasional quiet pools where uneroded sills of bedrock or ancient redwood logs have dammed the headlong rush of water.

On the trail down the precipitous slope you walked through chaparral where now in early summer the wildflowers bloom — blue lupine, purple lupine, yellow lupine, crimson paintbrush, orange mimulus, pastel morning glories, yellow daisies, red columbines and a dozen other varieties.

Then, as you reached the canyon bottom, the chaparral slopes suddenly gave way to cool, shaded aisles through redwoods and alders and willows and fern-covered banks mottled with the rich auburn colors of fallen redwood needles.

Seldom in a single brief walk anywhere can you encounter a more drastic change in climate, flora and fauna. These cool green groves are in a different world from the sun-beaten brushy slopes above. They stay damp during the rainless summers with the condensed drip of the sea fogs that are caught at night in the upper branches of the redwoods and patter to the forest floor in a steady light drizzle.

And now, sitting on this boulder on the rocky beach, you experience yet another world, that miraculous place where the waters of the stream, plunging down the final, steep western extremity of the continent, meet and merge with the ocean from which they came — the end of a cycle, the eternal return to the source of life.

In this place you are deeply aware of the ancient past. The Santa Lucias have risen slowly out of the Pacific in geologically recent time, thrust upward by the tectonic force of the oceanic plate colliding with the continental plate and forcing its edge to rise spasmodically 2000 feet into the sky.

The range is still rising and in the geologic future may rise much higher, rolling the ocean back off the flat terraces that the

slopes, more traffic, less wildness.

There are developers ready with plans for subdivisions, restaurants, motels, lodges and luxury resorts. A new cluster of commercial buildings, including a post office, has just opened for business in Big Sur Valley near the summit at Post's.

Your reflections on the beach are interrupted by a wave burst that showers you with spray, and you move up the cobble slope to a higher boulder.

Will this coast be overrun, you wonder, as population pressures erode even the loose restrictions that exist? Will it be as commercialized as the coast of Southern California, walled off from public enjoyment by private development, except for a few overcrowded parks?

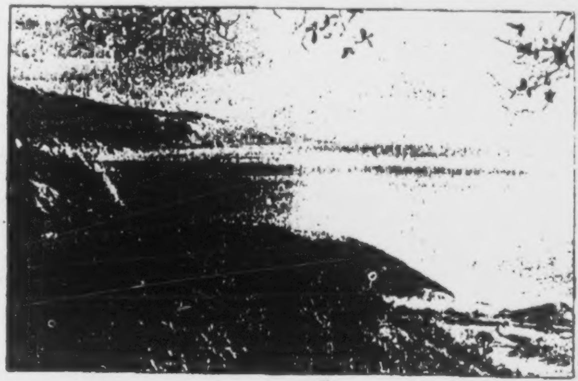
You note that the rocks and boulders on this beach, most of them granite, seem to be unrelated to the bedrock visible in the cliffs. They are varicolored: light grays, pale greens, blue grays, ruddy ambers and ochres. Some are speckled like Sierra granite, some streaked like marble, some striped and webbed with pure white intrusions. The topmost boulder, oddly, seems to be a massive chunk of conglomerate with no [illegible]

file of a dozen cormorants, flying low over the swells, heading south. Shortly another file appears, then a third. All of them follow the first group, splashing to a stop over a spot on the surface a quarter-mile out. They begin diving energetically, evidently having found a plentiful school of fish.

The late Ansel Adams often gazed at the ocean and down this spectacular coast from his home in Carmel Highlands. But in his last years, Adams had become increasingly alarmed at the pace of development along the coast.

Largely through the efforts of conser

The late Ansel Adams watched the steady Big Surbanization of the coast and proposed a national park. The reaction from many residents was: 'Don't Yosemitecate Big Sur.'



spasmodically 2000 feet into the sky.

The range is still rising and in the geologic future may rise much higher, rolling the ocean back off the flat terrace that the waves are now carving at the low-tide level, much as past risings of the range lifted out of the ocean the flat marine terrace you can see at intervals along the coast.

The shorter-term future of this coast is as hidden and uncertain as the tops of these ridges on days when the airborne moisture from the ocean rides up their slopes and condenses into clouds that swirl around the peaks in vapory billows and banners.

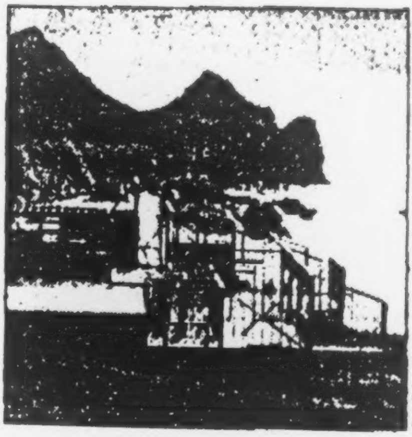
You recall that on each trip down this shoreline over the years you have seen more buildings, more side roads cut into the

ite; some streaked like marble, some striped and webbed with pure white intrusions. The topmost boulder, oddly, seems to be a massive chunk of conglomerate with no visible source.

You wonder where these rocks came from, what millennial process of quarrying and flooding and wave action brought them here from up in the canyon or from long-gone offshore sea stacks, split them, rounded their edges, polished them and laid them here. A profound sense of geologic time hovers in this place.

In the cove a sea lion pokes a sleek head above the surface, rides a swell, gazes at you and disappears

Two hundred yards offshore you see a


DAVE RANDOLPH

vationists, most of the Big Sur shoreline had been spared from the garish, motel-strip horror that had occurred farther south, near San Simeon. But the legal limits on development were still too weak to prevent the steady Big Surbanization of the oceanfront. Adams' solution was to propose a Big Sur National Park.

The reaction from many Big Sur resi-

From any objective point of view, the Big Sur Local Coastal Plan is a very weak reed to depend on for protection of the coast. It's better than no plan at all, but it would simply slow down suburbanization, not halt it. It would permit nearly triple the existing number of residences and visitor units.

Moreover, there is a loophole even in this plan big enough to accommodate several battalions of bulldozers. Changes could be made in the plan at any time by the supervisors and approved by some future pro-development Coastal Commission.

The Wilson bill would, in effect, plug that loophole and put federal guarantees behind the land-use plan by providing the power of eminent domain if the plan were significantly weakened. The fact that the bill is co-sponsored by Democratic Senator Alan Cranston augurs bipartisan support, lacking last time.

It is not clear how successful the private funding approach may be in raising the necessary cash to buy land that comes on the market. The coast may ultimately need stronger protection than the Wilson bill provides.

No plan to protect Big Sur will ever be devised that will satisfy everyone, including the residents. Their right to continue living there must be assured. But the Big Sur coast as a whole does not belong to them. It is a national treasure, and in the broadest sense it belongs by right to all future generations of Americans. ■

dents was violent. They feared eviction and envisioned the kind of tourist crowds that jam Yosemite Valley. Their battle cry was "Don't Yosemitecate Big Sur."

Adams later became persuaded that the most feasible way to preserve the coast would be by extending Los Padres National Forest, which occupies the crest of the range and some of the seaward slopes. Representative Leon Panetta, a Democrat whose district includes Big Sur, wrote a bill along those lines. It passed the House but was defeated in the Senate in 1980 when Republican Sam Hayakawa opposed it.

Now Hayakawa's Republican successor, Senator Pete Wilson, has introduced a bill for a Big Sur National Forest Scenic Area. It would be administered by the Forest Service and include lands now belonging to the Forest Service, the state, the Coast Guard and private landholders who would willingly sell. Existing grazing would continue, but there would be no logging, no mining and no offshore drilling.

Most of the funds to carry out the bill would be raised privately, with a small amount of federal seed money. Panetta, not entirely happy with Wilson's approach, is working with Big Sur residents and environmentalists to develop a consensus.

The initial reaction of many Big Sur residents to the Wilson bill has again been negative. They say the coast will be sufficiently protected by the Big Sur Local Coastal Plan approved by the Monterey County Board of Supervisors and the Coastal Commission.

Their fear of "federalization" is understandable. In some cases, the creation of national parks has led to the elimination of private holdings under the threat of condemnation. But the Forest Service has traditionally had a comfortable relationship with residents of its forests. It should be possible to provide legal safeguards for property owners.

Senator **Wallop**. Thank you, Senator Wilson.

Senator Hecht, did you have an opening statement?

Senator **Hecht**. Thank you, Mr. Chairman. I am interested in the proceedings here, although we do not have the same type of situation in Nevada. It is still interesting to watch what takes place in other States. And I do find it interesting.

Senator **Wallop**. Congressman Panetta, who, but for the translocation of a cousin might be one of my constituents or I might be one of his.

STATEMENT OF HON. LEON E. PANETTA, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. **Panetta**. You are exactly right, Mr. Chairman.

Mr. Chairman, members of the subcommittee, thank you very much. I know you have been involved in tax reform and I saw Danny Rostenkowski at the whip meeting, and he asked me to extend you his regards. I am sure that is all you need at this point. Anyway, I want to thank you for that effort and also thank you for giving me the opportunity to testify on the bill that is before you.

If I might, I would like to include my statement in the record and summarize it.

Senator **Wallop**. By all means, yes.

Mr. **Panetta**. I think you have got a unique opportunity in your decisions with regards to this legislation to decide how best to protect an area as unique as the Big Sur coastline or how not to protect it. I recognize and respect deeply my colleagues on the Senate side, both Senators Wilson and Cranston, who I have worked with on a number of other issues. And I think we all share the common goal of trying to preserve the Big Sur coast as it is.

What we disagree on is how best to do it at this point in time. I hope you will give careful consideration to all of the testimony that you are going to hear today. It comes from a number of different perspectives. But I think there is a common feeling at the community level that there is a solid effort that is being waged right now at the community level to try to protect Big Sur, and it ought to be given a chance to work.

Big Sur as you know is in my district, and it is probably the proudest thing I have in my district in terms of the beauty of that coastline. I was born and raised in Monterey and I have a very deep appreciation for what Big Sur is all about.

Big Sur is really not just an attraction in the same way that you go to a Niagara Falls or you go to an amusement park or the Statue of Liberty. It really is an experience. And I think those who have been to the Big Sur coastline understand that experience. You drive up the coast; you are able to stop, look at the ocean, enjoy the art galleries, stop at the inns, be able to speak with the local people—the ranchers, the people that are involved in that area; the citizens, the residents. That is the uniqueness of the area that I am talking about.

It is not just the view. It is not just the view. The uniqueness is made up of the view plus the culture, the heritage, the people who live there. It is that uniqueness that I think we want to protect. I think we have a common goal, I would hope, to protect that experience, that unique mix that makes Big Sur so special.

The question that faces all of us, both in the Senate and the House, at the Federal level and at the local level, is how best do you do that? How best do you do that? Do you put a Federal label on it and designate it a Federal scenic area and give the large degree of power to the Secretary of Agriculture whose last priority I would think would be to worry about what happens in Big Sur, particularly these days? Do you do it that way?

Or do you support the efforts that are being made at the local, State, and Federal level to try to protect what I call the experience of Big Sur? I think the answer is self-evident, the way I stated the question, because the fact is that if those efforts are being made at the local level, then I think the worst step we could take right now is to basically undercut those efforts.

So you have done a great job, come up with a strong local coastal plan, you have put together a strong effort to try to protect the area, but very frankly, we do not trust you. And that is the worst thing you can do at this point in time. And that is what my concern is—this particular approach because it basically undermines the efforts now that are working at the local level, to try to protect that area.

It is a lesson we have learned before; I have learned it personally. This is not an issue that I have not been involved with in the time I have been in the Congress. Six years ago I introduced very similar legislation to what the Senator put in because there was no local coastal plan in place at that time.

When that legislation was defeated, there was kind of a joint meeting of groups there to try to say what we ought to do is come up with a local coastal plan. Let's focus on that effort and then let's see how we can best support it. That was the effort. And what the community came up with is indeed a model plan.

We were prepared to then decide what would make the most sense in terms of supporting that plan. At that point Mr. Mott, who was Director of the National Park Service, then introduced an idea to establish a national parkway in Big Sur. Well, everybody went crazy at that point because they thought what is going on; we thought we were working with the local coastal plan.

So Mr. Mott, himself, took the time to come out, looked at the area, talked with local people, talked to me and others, and said, you are right. The community is doing a good job. They have put together a strong LCP. I am dropping the idea of a national parkway. Within a few weeks, Senator Wilson introduced his legislation and it appeared again that what was happening at the local level was largely not being listened to.

The efforts at the local level, I think, have been significant and they have been unified. It is not a question of whether we have been working just with one set of supervisors or one set of representatives or one set of businessmen in the community. This involves businessmen, environmentalists, and it involves representatives across the board who have worked together on this approach. And I think it is a model of what local communities can do.

I put together what we call a Coastal Partnership Group. It is made up of the State senator in the area, the State assemblymen, the supervisor for the area as well as the chairman of the board of supervisors as well as representatives of business, environment, and the various trusts that are operating in that area.

There are three areas that I think need to be addressed. If we are serious about trying to protect the area, then I think there are three areas that need to be addressed. One is we need better coordination of the agencies that have some jurisdiction in Big Sur. There is no question there are a number of agencies involved there now—something like 16 agencies, involving everything from the Forest Service to State parks and recreation to the Defense Department, which has some establishments there. It also involves the county, the State, Cal Trans—which is the transportation that controls the highway—all of those agencies have some piece of the action in Big Sur. They need to coordinate their policies.

The last two years I have had a council in which I have brought together those agencies to better coordinate those policies, and it is working. What they are doing is sitting there in the same room saying, "what are you doing, what's happening," and better coordinating their policies. That is important, and I think that needs to be done.

What we have developed is a county ordinance now that provides for a coordinating council. It is part of the local coast plan, part of the implementation of the local coast plan, and it will establish this coordinating council to better coordinate those policies. I think that is a very important step and ought to be given a chance to work.

The second area that is important is the support of this local coastal plan. And I understand that the Senator agrees that this is an excellent LCP. I guess what I am concerned about is that if it is a strong LCP then, and it is something the community has put together and it is a model, then we ought to support it. We ought not to undercut it by saying, I am sorry. We are going to have the Secretary of Agriculture look over your shoulder to determine whether you are really serious about putting this plan into place. I think we ought to give the community that opportunity.

Now funds are necessary to do that, make no bones about it. If we are going to implement this kind of local coastal plan, as the Senator knows, we are going to need money. We are looking at probably somewhere in the vicinity of $24 to $30 million to really be able to protect some of the viewshed areas.

We are doing it in three areas, and I think three approaches need to be taken. One is a private effort. People there decided if we want to make this work, then let us put on a strong private effort to try to raise the money, to give it to the county to be able to make that plan work. So we have established a preservation commission; contributions can be made directly to the preservation commission and to the county. And that is ongoing right now.

We are making State efforts to do it. We have talked to the State to hopefully develop a bond issue at the State level to funnel money to the county, again, for implementation of the LCP. We came very close a few weeks ago to getting that bond issue on the ballot. And our hope is that we still have a chance to do that.

The third is to try to funnel, if we can, some 8(g) money, which is basically the offshore drilling money that goes to the State of California, and see if we cannot target some of that money as well as perhaps even some land and water conservation funds to the county for the purposes of being able to implement that plan.

The third area that needs to be addressed is the area of providing protection on the Federal lands that are there. Forest Service does have the Los Padres National Forest in that area. My view is that we have to ensure that the Forest Service, in implementing their approach there, fits the goals and objectives of the local coastal plan.

Right now the Forest Service is involved in developing a master plan for the Los Padres National Forest. They are working on a draft plan right now. We have met with the Forest Service, with Zane Smith, who is the regional director out there, along with others, in trying to ensure that this master plan provides protection in conjunction with the LCP. He is willing to do that in the sense that he said, I am willing to work with you to try to ensure that that master plan meets those goals.

We ought to give that a chance to see whether that master plan, which will be completed I understand by the end of this year, meets those objectives. If it does not, then we may have to be here in terms of legislation to ensure that the Forest Service does indeed abide by those same goals and objectives. But we ought to try at this point in time to see if we can incorporate it in the master plan.

So the bottom line here, Mr. Chairman and members of the subcommittee, is that there is a solid, strong, committed, and I think unified effort being made to perserve Big Sur that is going on at the community level. Surely we ought to give that a chance to work.

This is not a question of the sincerity of Senators Wilson and Cranston and the others who support this legislation. I respect their sincerity and I think they really do have the best interests of Big Sur in mind in terms of the effort that they have here. But the best way to preserve Big Sur is not to provide for the threat or potential of a larger Federal presence at this time.

The best way to protect Big Sur is to give the community the chance to preserve this area in a way that builds on existing efforts. I think that is in the best tradition of the shared responsibility that we like to advocate at the Federal level. It is in the best tradition of our democracy and I think it is the most effective way of protecting Big Sur.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Panetta follows:]

Statement of the Honorable
Leon E. Panetta
Before the Senate Subcommittee on Public Lands
July 31, 1986

Mr. Chairman, Members of the Subcommittee, I would like to thank you for allowing me this opportunity to address an issue of great importance to the people of my district, and to the future of a truly remarkable area of the California coast. The bill being considered today, S 2159, raises some very important questions about how best to preserve a unique area, whether local and state efforts at protection should be encouraged, or whether a federal label should be applied to Big Sur.

I do not believe that anyone here today would dispute the fact that the Big Sur is a resource of truly national significance. Nor do I believe that anyone doubts the need to preserve this resource for generations to come. I am convinced that we all share this common goal. The debate focuses on the question of which methods are best suited to achieving the needed protection.

The use of federal control over an area is a policy that has been under increasing scrutiny in recent years. Legitimate questions about the sensitivity of management, increasing commercialization, severely reduced resources, timber and mining policies, and the continuing threat of assets sales raise deep and significant concerns about whether a federal label is the best way to protect anything. The prefered trend is to try and preserve an area not as the Federal Government may desire, but the way it is. That must be the goal for Big Sur.

Let me stress the special nature of this area. Extending over seventy miles along the California coast between Monterey and San Luis

Obispo, the Big Sur is the longest and most scenic stretch of undeveloped coastline in the continental United States. It is not only an area of outstanding scenic beauty and spectacular views, but of independent and self reliant people and communities. It is an area which is managed not by a single government entity, but by a multitude of agencies and departments at all levels of government (16 at last count) with responsibilities for a number of seperate, and sometimes overlapping, jurisdictions. It is this mix - this balance - that must be protected.

Clearly, the key to preserving Big Sur is an understanding not only of its magnificent natural beauty but the heritage, culture and special qualities of the people that make this area the truly unique region that it is. This is not a situation that can be addressed by any existing federal land management concept. Past struggles over proposals running from a national park, to a scenic area, to the most recent suggestion of a national parkway have confirmed this fact.

In seeking to protect and preserve this area, we must balance all of the important values that make Big Sur what it is today. With this principle in mind, I worked for over two years with the citizens of Big Sur, the affected local, State, and Federal agencies, local groups and a number of interested parties before introducing the The Big Sur Area Act in 1980. While the bill failed in the Senate, the preservation effort continued on the local level, and, five years later, paid off with the final certification by the State of California of an excellent Local Coastal Plan (LCP).

While much remains to be done to successfully implement the LCP, most, if not all of the necessary components can be put together at the local and state levels. The LCP was not designed to be part of a larger, federal approach to area preservation, and while coordination of local, state and federal efforts, funding for land acquisition and the other components which will be necessary to implement the plan should be provided for, increased federal authority over the implementation can and should be avoided as long as it is unnecessary.

I have been impressed by the efforts on the local level both to design the LCP, and, over the past few months, to take action to implement it. It seems clear to me that Congress should be doing everything it can to encourage this effort. My concern is that giving authority to the Secretary of Agriculture to implement the plan, as provided for in S 2159, will act as a disincentive to the local effort, and that the tremendous progress that has been made will be destroyed by a well meaning, but misguided, federal attempt to enforce its provisions.

I think the question that must be seriously considered by the Subcommittee is why we need this legislation. What need or problem is it addressing that cannot be addressed by local and state efforts? I certainly agree that to effectively preserve and protect Big Sur, there must be comprehensive planning, effective management and appropriate financial assistance and enforcement to implement such planning and management. By the very fact that there exists a mix of jurisdictions between the local, State and Federal Government in this area, there is a need to coordinate such planning and management. If standards conflict, if resource management differs, if property owners or residents face varying rules and regulations from different levels of Government, then the residents and citizens of Big Sur themselves will pay a heavy price for lack of coordination.

As I see it, there are three major needs which should be seriously considered: 1) the efforts of the agencies who have jurisdictions in the area should be coordinated; 2) funding should be made available to purchase land, scenic easements and development credits so that development pressures do not undermine the LCP and; 3) management of Forest Service lands in the area should be carried out in a manner consistent with the LCP.

S 2159 responds to these needs with a comprehensive package of actions to be taken at the Federal level. The bill establishes a "National Scenic Area" incorporating Federal, State and private lands under the authority of the Secretary of Agriculture. An advisory board, made up of representatives of the various agencies involved, would be created to give recommendations and advice to the Secretary with regard to the Secretary's management of federal lands within the Scenic Area. A Congressionally chartered Trust would be established to raise funds to be used for land acquisition. Finally, the bill provides the Secretary with a "stick," in the form of condemnation authority, to enforce the management plan he adopts for the Scenic Area.

While these provisions undoubtedly respond to the three areas of concern I have discussed, they ignore the alternative approaches available at the state and local levels while providing a disincentive for the continuation of the local effort. These alternatives are practical, possible and preferable, and because I believe that they should be given a chance to work, and that increased Federal authority should be avoided until these options have been exhausted, I have joined with a group of local leaders, citizens and groups in organizing a program of actions termed the "Coastal Partnership for Big Sur." The Partnership is a joint citizen, county, state and federal effort which seeks to build on local community actions to maintain the quality of life and scenic values of the Big Sur coastline by coordinating public agencies at every level of government behind the goals and objectives of the LCP.

The goal of the partnership is to develop a strong private and public strategy that effectively responds to the concerns over the future of Big Sur without mandating a larger federal presence such as that envisioned in the bill introduced by Senator Wilson. In fact, this effort was organized because of the adverse community reaction to S 2159, with the goals of developing a positive and broad based consensus on addressing the needs of the area.

Those of us involved in the Partnership effort are convinced that there are a number of significant steps which can be taken at the local and state levels to provide the necessary protection for Big Sur. For example, the Monterey County Board of Supervisors has recently enacted an ordinance to establish a coordinating council which the Forest Service has expressed a willingness to work with. Further, a Preservation Commission has been chartered by the County to raise money for land acquisition, and attempts are being made in the State legislature to place a $15.5 million bond issue for the implementation of the Big Sur LCP on the state ballot in November. Finally, the Forest Service will be working with those who crafted the LCP as it develops a management plan for the Monterey District of the Los Padres National Forest.

Not only does S 2159 go well beyond what is necessary in terms of granting federal authority over the implementation of the LCP, there are other provisions of the bill which are cause for concern. The bill provides for an oil and gas sanctuary offshore which fails to fit into an overall strategy for the protection of the California coast. Because of its special importance both to the Big Sur Coast as well as to the rest of the State of California, I believe that the issue of protecting against offshore drilling can be more effectively addressed in a separate and comprehensive piece of legislation that relates to the entire California coastline rather than one area on a selective basis. The House Fiscal Year 1987 Interior Appropriations bill contains a one-year delay in offshore oil and gas leasing which I believe provides Congress with the time necessary to consider seriously a comprehensive, balanced approach to offshore exploration and development.

Other areas for concern include the provisions relating to limitations on ownership of property, the overriding of county and state regulations as well as the LCP, the adverse impact of unlimited recreational uses, and possibly, the expanded ability to mine and timber that the bill could provide. Unfortunately, the impacts of the bill in these areas is not clear, and for this reason, are cause for serious examination by this Subcommittee.

It is my hope that if we can build a consensus behind the efforts being made at the state and local levels, the protection that we all wish to achieve can become a reality by avoiding, rather than creating, an atmosphere of suspicion and conflict. While I commend Senators Wilson and Cranston for their commitment to the preservation of Big Sur, I would urge them to listen carefully to the concerns of the people of Big Sur, and to examine seriously the alternatives which exist before proceeding with S 2159. I am convinced that the LCP is the tool which best takes into account the unique characteristics of both the area's spectacular scenery and the community which has become an integral part of the Big Sur. It is clearly possible to implement the plan without resorting to comprehensive federal legislation at this time, and these efforts should be encouraged by this Subcommittee. The excellent job now being done by local and state agencies in planning for Big Sur's future and in administering the area should be recognized, and future plans should be designed to coordinate rather than supplant those efforts. To ensure success, I would urge the Subcommittee to encourage consultation and cooperation and to support a united effort to preserve and protect Big Sur.

# # #

Senator WALLOP. Thank you very much, Congressman.

Senator Cranston is not here, but when he does come we will ask whoever is testifying to give him his say.

I appreciate your coming over from the House this morning to give me that testimony as the one who represents the area. This Senator has an open mind as to which way the legislation should travel, which is of course the purpose of the hearing.

Mr. PANETTA. Senators from Wyoming always have an open mind.

Senator WALLOP. As long as it is not vacant—just open. [Laughter.]

I am going to ask Dennis Galvin, Deputy Director of the National Park Service, to give us his testimony on the other two brief bills that are also the subject of this hearing.

Senator WILSON. Mr. Chairman, I wonder if the Congressman has time for some questions.

Senator WALLOP. Senator, that is fine. But we have some 35 additional witnesses. So if you can be as brief as possible, by all means do.

Senator WILSON. I am mindful of the time constraints, so I will attempt to do that.

Senator WALLOP. I have to say that this has to be over right at 11:50—12 o'clock. So keep in mind that I am trying to get everybody heard.

Senator WILSON. Leon, when we last spoke about this, you were in the process of devising a bill. Do you yet have one?

Mr. PANETTA. No, Senator Wilson, because basically having worked with this partnership group at the local level, the three areas that I have just indicated are those that we feel we are able to deal with at this point in the process. We have an ordinance with the coordinating council. We have established a preservation commission.

The one area, as I said, is in the Forest Service. And before I decide what needs to be done to ensure that the Forest Service abides by the goals and objectives of the LCP, I want to see what they put in their master plan, very frankly. And that is why at this point I have held off.

Senator WILSON. You and I agree that we have a good land use plan and that is precisely the point. How do you prevent its being changed by some future and quite different board of supervisors? That is almost a rhetorical question.

Mr. PANETTA. No. I understand. I think you can basically make that argument whether it is on a Federal, State, or local level.

Over the last 6 years, as you know, we have been fighting the administration and the Secretary of the Interior on offshore drilling issues off of Big Sur. That has told me a great deal about changes that can take place at the Washington level with regard to sensitivity about areas. So that is one of the reasons, very frankly, I am not about to hand the Secretary of Agriculture the authority on onshore Big Sur, when we have been fighting them on offshore.

Senator WILSON. That is quite correct. But the bill does not do that.

Mr. PANETTA. I understand.

Senator WILSON. You understand it does not do that at all; in fact it gives him next to no discretion, outside the Federal Forest Service areas nor even within because he is bound by the land use plan.

Mr. PANETTA. I understand.

Senator WILSON. If the plan is not changed, he has no trigger for any action on his part outside the forest lands, and he is really bound by the plan inside the Forest Service lands.

Mr. PANETTA. I guess one thing I have learned working on the budget process and now, working on Gramm-Rudman trigger mechanisms, is that anytime you try to restrict so precisely the judgment of the administration in one way or another, you cannot do it. You have to provide some discretion. The discretion you provided is that the Secretary has to determine whether in fact Monterey County is indeed implementing their LCP. That gives a tremendous amount of discretion and power to the Secretary of Agriculture.

Senator WILSON. It gives a lot less, I will assure you, my friend, having spent 11 years in local government, than exists at the local level. We agree then that it should not be easily changed, this excellent plan.

Mr. PANETTA. That is correct.

Senator WILSON. I guess we disagree with respect to the threat that exists to it from a change in the composition of the board.

Do any of the members of your partnership, the partnership that you have formed, do any of them presently oppose the land use plan?

Mr. PANETTA. No.

Senator WILSON. None of them desire to make any changes in it?

Mr. PANETTA. No. Obviously the groups that have fought over the local coastal plan have made their views known and now, I think, acknowledge that the local coastal plan is the best vehicle to control and preserve the Big Sur area.

You know obviously there are going to always be members who have one critique or another critique. How effectively the operation of the transfer credits as part of the plan can work is something about which everyone—both environmentalists as well as the property owners—has concerns. But I think everybody right now says we have got a plan in place; let us try to make it work.

Senator WILSON. In the interest of time, Mr. Chairman—both the committee's and the Congressman's—I will save the other questions for later, and I think I have some that I can ask subsequent witnesses.

Senator WALLOP. Thank you, Senator.

Senator WILSON. I might say in passing I believe the Congressman and I, not at all parenthetically, have the same understanding of Secretary Hodel's feeling about the area offshore. It is my understanding at least that he has publicly announced that it is his intention to remove that area from future lease sales.

Mr. PANETTA. It was a hell of a battle, a hell of a battle.

Senator WALLOP. I might just make the observation that in a democracy, thank Heaven, things do change. I am not certain how good permanent snapshots are. They tend to fade as well as other things. I worry a little bit that we do not trust the very democracy that we embrace, sometimes. Boards of supervisors change, Members of Congress change, Presidents change and Secretaries change. It is just one of those neat things about a democracy, that it carries with it its own risk. But it also carries with it its own blessing.

I see that Senator Cranston has arrived.

Senator Cranston.

STATEMENT OF HON. ALAN CRANSTON, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator **Cranston**. Thank you very much, Mr. Chairman. I am pleased to be back before this committee to testify in support of legislation to protect California's Big Sur, one of the most magnificent stretches of undeveloped coastline in the entire United States.

As members of the subcommittee may recall, in 1980 I introduced the first bill ever to designate the Big Sur coast as a national scenic area. The following year I introduced a modified bill to address the concerns of some of the local residents.

However, because of disagreement between California's two Senators at that time—my colleague then was Senator Hayakawa—we were not able to pass legislation. This year I am a cosponsor of Senator Wilson's bill, S. 2159, to designate the Big Sur National Forest Scenic Area. I am delighted to be working with Pete Wilson to establish an appropriate Federal role in protecting the Big Sur coast.

A great deal has transpired since 1980, and even since the introduction of S. 2159. Most importantly, Monterey County has developed, and on April 9 of this year the California Coastal Commission approved, a coastal zone management program for Monterey County that is considered the most restrictive in the Nation. The plan creates a critical viewshed along Highway 1, prohibits any construction that would be visible from the road, limits construction on steeply sloped lands, and imposes restrictive population density controls.

Additionally, under the leadership of Congressman Leon Panetta, steps have been taken to form a partnership for Big Sur. Monterey County recently passed an ordinance establishing the Big Sur Preservation Commission to provide the funding and resources to make the land use plan enforcible and workable under local control.

The commission expects to raise $25 million over a number of years for a Big Sur trust fund to purchase scenic easements, development rights, and in some cases fee title to lands within the critical viewshed.

Leon Panetta also has been instrumental in bringing about improved coordination among State, local, and Federal agencies through his sponsorship of the ad hoc task force on Big Sur. The task force has been regularly for about 5 years, with the Forest Service participating in this effort.

About a month ago, Monterey County formalized this arrangement through the adoption of an ordinance creating a coordinating council. Clearly a tremendous amount of work and initiative is being undertaken at the local level.

I not only want to commend Congressman Panetta for his role, but the residents of the Big Sur community as well. All of us who know and love Big Sur, as I do, want to preserve it the way it is today. We all share that goal: Senator Wilson, Congressman Panetta, local citizens, the people of California, and myself. But this is especially true of the residents of the immediate area.

Mr. Chairman, if there is to be Federal legislation this year and a case can be made that the need for Federal involvement is not compelling at this time, I believe the bill should be amended in a number of respects. Those are outlined in a statement that I will hand to you for inclusion in the record, and that is all I will say at this point.

One of my reasons for brevity is your time and other witnesses waiting. The second reason is that I am presently engaged in a markup in the Foreign Relations Committee on the very important issue of apartheid, and I have to get back there as fast as I can.

[The prepared statement of Senator Cranston follows:]

STATEMENT BY SENATOR ALAN CRANSTON
BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER
ON S. 2159, TO DESIGNATE THE BIG SUR NATIONAL FOREST SCENIC AREA

July 31, 1986

Mr. Chairman, I'm pleased to be back before this Subcommittee to testify in support of legislation to protect California's Big Sur, one of the most magnificent stretches of undeveloped coastline in the entire United States.

As members of the Subcommittee may recall, in 1980 I introduced the first bill ever to designate the Big Sur coast as a National Scenic Area. The following year, I introduced a modified bill to address the concerns of some of the local residents. However, because of disagreement between California's two Senators, we were not able to pass legislation. This year I'm a cosponsor of Senator Wilson's bill, S. 2159, to designate the Big Sur National Forest Scenic Area. I am delighted to be working with Pete Wilson to establish an appropriate federal role in protecting the Big Sur coast.

A great deal has transpired since 1980, and even since the introduction of S. 2159. Most importantly, Monterey County has developed, and on April 9 of this year the California Coastal Commission approved a coastal zone management program for Monterey County that is considered the most restrictive in the nation. The plan creates a critical viewshed along Highway 1, prohibits any construction that would be visible from the road, limits construction on steeply sloped lands, and imposes restrictive population density controls.

Under the land use plan "all development must harmonize with and be subordinate to the wild and natural character of the land." Additionally, "any new development should remain within the small-scale, traditional, and rural values of the area." A maximum of 850 new houses could be constructed to augment the existing 600 homes, and 300 new hotel rooms could be added to the current 165 units. For any property owner who is unable to build within the critical viewshed, the plan provides that the individual be given two transfer of development credits to build two homes outside the viewshed.

Additionally, under the leadership of Congressman Leon Panetta steps have been taken to form a partnership for Big Sur. Monterey County recently passed an ordinance establishing the Big Sur Preservation Commission to provide the funding and resources to make the land use plan enforceable and workable under local control. The Commission expects to raise $25 million over a number of years for a Big Sur trust fund to purchase scenic easements, development rights, and in some cases fee title to lands within the critical viewshed.

Leon Panetta also has been instrumental in bringing about improved coordination among state, local and federal agencies through his sponsorship of the Ad Hoc Task Force on Big Sur. The Task Force has been meeting regularly for about five years, with the Forest Service participating in this effort. About a month ago, Monterey County formalized this arrangement through the adoption of an ordinance creating a Coordinating Council.

Clearly a tremendous amount of work and initiative is being undertaken at the local level. I not only want to commend Congressman Panetta for his role, but the residents of the Big Sur community as well. All of us who know and love Big Sur want to preserve it the way it is today. We all share that goal -- Senator Wilson, Congressman Panetta, local citizens, the people of California, and myself. But this is especially true of the residents of the immediate area.

Why then is federal legislation still desirable? What benefit will it provide? The answer is twofold. The land use plan could be weakened in the future. And the national forest lands are not covered by the local plan. Federal legislation would provide permanence, and reinforce the local effort. It also would ensure that activities on the federal lands do not lead to the kinds of development the local plan intends to control.

Mr. Chairman, if there is to be federal legislation this year -- and a case can be made that the need for federal involvement is not compelling at this time -- I believe the bill should be amended in a number of respects.

First, given the establishment of the Big Sur Preservation Commission and its trust fund and the existing Big Sur Land Trust, there is no need to establish a trust in this bill. The effort already underway promises to provide the necessary funding to purchase lands or interests in lands in the critical viewshed. However, there may be lands with significant resource values for sale outside of the critical viewshed which should be purchased for the public. Further, the land use plan is untested and there is the possibility that it could be weakened in the future. For these reasons, I believe there should be authority to use Land and Water Conservation Funds to back up the local effort. Use of federal funds should be very limited, with condemnation permitted only if the land use plan is violated or weakened. Such a provision should serve as a deterrent to weakening the local plan.

Any lands acquired with LWCF monies should be managed by the Forest Service unless more appropriately managed by a state or local government agency or non-profit entity under a cooperative management agreement.

Second, mining on Forest Service lands continues to be of great concern, particularly with respect to the possible limestone mining on Pico Blanco. I am aware that the draft plan for the Los Padres National Forest proposes to withdraw the lands within the critical viewshed from oil and gas leasing and lands between Highway 1 and the ocean from locatable mineral entry. But the forest plan does not protect the entire Big Sur area from mining or provide permanence. S. 2159 does so by withdrawing all the national forest lands along the Big Sur coast from oil and gas leasing and entry under the 1872 Mining Law, subject to valid existing claims.

There is some question, however, about the validity of some mining claims. Thus, I favor amending the bill to require the Secretary of Agriculture to determine the validity of the existing claims, and to submit to the Congress a recommendation as to whether any valid or patented claims should be acquired by the federal government, together with the estimated acquisition costs of such claims and an assessment of the environmental consequences of not proceeding with acquisition. This would give Congress information on which to make future decisions, and would not interfere in the ongoing litigation California Coastal Commission v. Granite Rock.

I am also aware that local residents are concerned about increased visitation and Forest Service development of facilities along the Big Sur coast if this legislation is enacted. According to the Forest Service, increased visitation is directly related to development of visitor facilities. To ensure against such development, I favor amending the bill to prohibit the Forest Service from building new structures for visitor or administrative purposes.

Mr. Chairman, the Big Sur coast is truly a national treasure. I believe the federal government has a responsibility to do its part to maintain the rural character of the existing Big Sur community.

Senator WALLOP. Thank you, Senator.

Senator Wilson, do you have any questions?

Senator WILSON. No. I thank the Senator. I have no questions. Thank you, Alan.

Senator CRANSTON. I thank my colleague and friend.

Senator WALLOP. Dennis Galvin, if you could give us the testimony on S. 767 and House Joint Resolution 666, please?

STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. GALVIN. Thank you, Mr. Chairman. I have a prepared statement, and I will simply summarize it and submit it for the record.

House Joint Resolution 666 passed the House of Representatives on June 26, 1986. It expresses the sense of the Congress that the National Council for Education and Economic Development, Inc., is deserving of encouragement and support in its efforts to raise an endowment to assure a permanent location of a commemorative structure within the National Park System or on other Federal lands, dedicated to understanding, knowledge, opportunity and equality for all people.

We endorse this commendable project. We would enter into cooperative interpretive programs with the National Council through our normal interpretation of sites associated with the important role that Afro-Americans have played in the development of the United States.

This legislation would not authorize construction or set aside land for a building. Separate legislation would be necessary to authorize such a structure. We understand that the commemorative structure will be privately funded and consist of a museum and a cultural center.

There are two other laws that are worth referencing that have similar intents. The project will be similar to the proposed National Center for the Study of Afro-American History and Culture, which is proposed to be developed in Wilberforce, OH. A Federal Commission was created to plan the construction and operation of that center, created by the act of October 10, 1980. The Secretary of the Interior is represented on that Commission by Ms. Charlotte Brooks Spann.

Also the legislation that created the Jefferson National Expansion Memorial Commission authorizes a study of a Museum of American Ethnic Culture in connection with the development of the East Saint Louis waterfront. A study by the National Park Service on the feasibility of that museum is part of the Commission's plan and is funded for this year. That museum will include elements of African American history and culture.

We believe the encouragement of plans to develop a separate museum and cultural center on National Park System or other Federal lands as a private initiative is appropriate, and we therefore strongly support the enactment of House Joint Resolution 666.

The second bill I am testifying on this morning is S. 767. We strongly recommend that this bill not be enacted. The bill would require the National Park Service to provide to a private individual what the courts have determined that individual is not entitled to; namely, private vehicular access across park land to his residence.

In 1982 Mr. Eddie Jones was given a temporary permit for the purpose of moving a house he had purchased that was within the boundaries of Buffalo National River. Subsequently, Mr. Jones asked for a permanent right of access but was refused.

The superintendent denied his request because the National Park Service does not have the authority in law to grant permanent vehicular access across park land for private purposes. And even if the authority were available, the use proposed by Mr. Jones would not be consistent with the purposes for which the riverway was created.

In 1983 Mr. Jones sued the Department of the Interior to secure permanent vehicular access. On March 7, 1984, the district court dismissed the action, finding that Mr. Jones had no right to use part of the park lands for access to his residence. The judgment was affirmed on appeal.

Mr. Jones is not deprived of access to his house. He built a road outside the national river boundary to his house and has been using it since March 1984.

We are not certain of the effect of S. 767 with respect to whether or not Mr. Jones would be granted this access free of charge. The bill is silent on it. We would assume that there would be no monetary consideration for such access.

Mr. Chairman, private access across park land is an extraordinary benefit for Congress to grant to one individual. The only basis for granting such a benefit must be a powerful equitable argument in favor of this one individual. The facts, as found by the U.S. district court, indicate that no such equities exist. And we have a copy of the court opinion that we can submit for the record.

The matter has been litigated in court, and Mr. Jones has alternative access to his residence. The committee staff has been furnished a map that indicates how these two—the proposed access and the existing access—work with respect to the boundary.

We see no benefit to the public by giving Mr. Jones another access and thereby encouraging other property owners and developers up and down the river to request private access roads for themselves. We therefore strongly recommend against enactment of S. 767.

That concludes my testimony, Mr. Chairman.

[The prepared statement of Mr. Galvin follows:]

STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING H. J. RES. 666, EXPRESSING THE SENSE OF CONGRESS IN SUPPORT OF A COMMEMORATIVE STRUCTURE WITHIN THE NATIONAL PARK SYSTEM DEDICATED TO THE PROMOTION OF UNDERSTANDING, KNOWLEDGE, OPPORTUNITY AND EQUALITY FOR ALL PEOPLE, AND S. 767, TO DIRECT THE SECRETARY OF THE INTERIOR TO PERMIT ACCESS ACROSS CERTAIN FEDERAL LANDS IN THE STATE OF ARKANSAS

July 31, 1986

Mr. Chairman, I appreciate the opportunity to provide your subcommittee with the views of the Department of the Interior on this legislation.

H.J. Res. 666--commemorative structure within the National Park System.

H.J.Res. 666 passed the House of Representatives on June 26, 1986. The joint resolution would express the sense of Congress that the National Council for Education and Economic Development, Incorporated, is deserving of encouragement and support of the American people in its program to raise an endowment to assure a permanent location of a commemorative structure within the National Park System or on other federal lands, dedicated to understanding, knowledge, opportunity and equality for all people.

We endorse this commendable project. We understand that the interprative programs of the National Council would be developed jointly with the programs of the National Park Service. We believe that such cooperation will strenghten our own interprative programs in order to tell the full story of the richness and diversity of America's natural and cultural heritage, and the important role that Afro-Americans played in the development of the United States.

This legislation would not authorize construction or set aside land for a building. Separate legislation would be necessary to authorize such a structure.

We understand that the commemoratve structure will be privately funded and will consist of a museum and cultural center; it will provide scholars with opportunity for reseach, and visitors of all ages, races, and nationalities with an opportunity to learn an important, but often ignored, chapter in our Nation's history.

In this connection, the project will be similar to the proposed National Center for the Study of Afro-American History and Culture, which is proposed to be developed in Wilberforce, Ohio. A federal commission to plan the construction and operation of that center was created by Title II of the Act approved October 10, 1980. The commission was authorized to acquire property in Wilberforce, Ohio, for the headquarters of the center, and we understand that plans are underway for acquisition, development, and operation of the Center. The Secretary of the Interior is represented on the commission by Ms. Charlotte Brooks Spann, the Director of the Office of Small and Disadvantaged Business Utilization in the Office of the Secretary.

Plans are also being made by the Jefferson National Expansion Memorial Commission for a Museum of American Ethnic Culture in connection with development of the East Saint Louis Waterfront. Subsection 8(b) of the Act of May 17 1954, as amended by the Act of August 24, 1984, directed the Jefferson National Expansion Memorial Commission to include a study by the National Park Service on the fesibility of a Museum of American Ethnic Culture as part of the Commission plans for East Saint Louis. The National Park Service will obligate $50,000 in this fiscal year for a contract in connection with the study of this proposed museum. The museum will include elements of African American history and culture, and will therefore be similar to the museum contemplated in H.J.Res. 666.

We believe the encouragement of plans to develop a separate museum and cultural center on National Park System or other Federal lands, as a private initiative, is appropriate, and we therefore strongly support the enactment of H.J.Res. 666.

S. 767--Access across Buffalo National River, Arkansas.

We strongly recommend that this bill not be enacted. The bill would require the National Park Service to provide to a private individual what the courts have determined that individual is not entitled to, namely private vehicular access across park land to his residence.

In 1982 Mr. Eddie Jones was given a temporary premit to use National Park Service land in Buffalo National River for the purpose of moving a house he had purchased within the national river to private land outside the boundary. Mr. Jones asked for a permanent right of access across park land but was refused. The Suprintendent denied his request because the National PArk Service does not have the authority to grant permanent vehicular access across park land for private purposes. Furthermore, the land is partially wooded and partially old pasture land that is now returning to its natural condition as a forest. Even if the authority were available, the use proposed by Mr. Jones would not be consistent with maintaining or fostering the natural conditions of the riverway.

In 1983 Mr. Jones sued the Department of the Interior for the right to permanent vehicular access across National Park Service land to the house he had moved to private land outside the boundary. On March 7, 1984, the United States District Court for the Werstern District of Arkansas dismissed the action, the Court finding that Mr. Jones has no right to use part of the park lands for access to his residence. The judgement was affirmed on appeal.

Mr. Jones is not deprived of access to his house. He built a road outside the national river boundary to his house and has been using it since March 1984

The effect of S. 767 would be to grant Mr. Jones the permanent access right that the Superintendent and the United States Courts have denied him. Since the bill does not provide for any payment from Mr. Jones, the access would be granted free of charge. Furthermore, the map referred to in S. 767 does not exist. Yet the bill would require that access across park land be provided to private property shown on the map. We are assuming that only Mr. Jones' residence is the focus of the bill.

Mr. Chairman, private access across park land is an extraordinary benefit for Congress to grant to one individual. Since the courts have found no legal right to such access, the only basis for granting such a benefit must be a powerful equitable argument in favor of this one individual. The facts as found by the United States Distrct Court indicate that no such equities exist here. The Court stated in part:

> The evidence shows that Mr. Jones, "with his eyes wide open", bought the residence that he now occupies at a public

> sale held by the government and then moved it to where it is now located, across public lands, after obtaining a limited authorization to do so, and after promising that he would within a prescribed time, provide other access to his home. In short, he was misled by no one and he invited his present predicament...the evidence indicates that he has other access to the property across lands once owned by his father, and now owned by other members of his family. In fact the easement signed by his father and introduced in evidence as Government Exhibit 9, presumably gives him access to the property.

The matter has been litigated in court and Mr. Jones has alterntive access to his residence. We see no benefit to the public by giving Mr. Jones another access across park land and thereby encouraging other property owners and developers up and down the river to request private access roads for themselves. We therefore strongly recommend against the enactment of S. 767.

UNITED STATES SENATE

ENERGY AND NATURAL RESOURCES COMMITTEE

- - - - - - - - - - -

STATEMENT OF

TOMMY MACK, PRESIDENT

NATIONAL COUNCIL FOR EDUCATION AND ECONOMIC DEVELOPMENT, INC.

- - - - - - - - - - -

JULY 31, 1986

Mr. Chairman and Members of the Committee:

It is a privilege and an honor for me to present testimony before the Energy and Natural Resources Committee in support of House Joint Resolution 666 which seeks neither funds nor a commitment for land. We are merely asking for a sense of Congress in support of an educational project which shall be designed to help improve and thereby strengthen the United States of America.

On June 26, 1986, with 103 bipartisan co-sponsors, the House of Representatives passed by unanimous consent House Joint Resolution 666, which expresses the sense of Congress in support of a commemorative structure within the National Park System or on other Federal lands dedicated to the promotion of understanding, knowledge, opportunity and equality for all people. Since passage of the Resolution, more than 20 additional members registered their support for the measure which is now before you.

The National Council For Education and Economic Development, Inc. (NCEED), a private nonprofit organization plans, through volunteerism and wide range public support, plans to develop an endowment to build a suitable structure from which to fully research, explore and teach Afro-American history, the history of slavery and its role in the United States. Finally, we will focus on contemporary problem solving.

We feel that history is instructive for the present and the future. It has been well stated that a people or society which ignores the mistakes of its past is doomed to repeat them, and until corrective action is taken the fabric of the society is diminished, thus rendering it incapable of achieving its full and glorious potential otherwise available to it. It is fitting that we are presenting testimony before this particular committee in support of a project to strengthen, by education, our greatest natural resource -- human resource.

NCEED believes deeply in the admonition "know thyself to make ready for progress." We also understand, as most people do, that education is the cornerstone that provides the tools with which to build and advance civilization. Likewise, economics are the determinants of both the quality of life and the security of people. Similarly, cultural roots are the foundation of the individual, the family, and the society. For the good of our country, we expect to have a very positive impact in these areas.

The task before us is enormous, but so are our resources and our determination. We have positive indications that hundreds of thousands of people from the following groups will support our efforts:

- Corporations
- Politicians
- Foundations
- Entertainers
- Universities
- Religions
- Athletes
- Labor Unions
- The Media
- High Schools
- Elementary Schools
- Education Associations
- Business Professionals
- American Citizens

Congressional approbation, by passage of House Joint Resolution 666, will facilitate many of the remaining difficult endeavors of NCEED. We will immediately proceed to add to our Board some nationally recognized Americans. Then through private initiatives, we shall raise an endowment to achieve our goals. During this entire process we will secure the services of architects, engineers, historians, scholars, technicians and other experts who will plan and design a facility to meet the needs of the public. After we have accomplished the aforementioned, we shall return and present our program to the Congress for its consideration and approval if it concurs.

Mr. Chairman, we are immensely pleased that the Honorable Donald Paul Hodel, Secretary of the Interior, and the Honorable William Penn Mott, Jr., Director of the National Park Service, have expressed support of our goals. Each has written a letter to NCEED. We attach these letters as part of our appeal to this committee for its support and passage of House Joint Resolution 666.

Thank you very much.

THE SECRETARY OF THE INTERIOR
WASHINGTON

JUN 24 1985

Mr. Tom Mack
President, National Council
for Education and Economic
Development, Inc.
P. O. Box 24029
Washington, DC 20024

Dear Tom:

I am pleased to learn of your plans to raise a private endowment to finance a commemorative structure within the National Park System dedicated to research and educational/interpretive programs to foster understanding, knowledge, opportunity and equality of all people.

I applaud the goals of the National Council for Education and Economic Development, Inc. This private initiative is wholly consistent with the President's objective to encourage voluntary efforts by the private sector in the preservation and interpretation of America's heritage.

While we cannot commit the Department or the Park Service to provide funds or to endorse legislation that provides funds, we look forward to a beneficial working relationship with NCEED.

Sincerely,

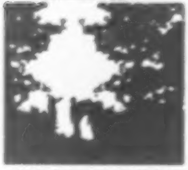
Don Hodel

DONALD PAUL HODEL

United States Department of the Interior

NATIONAL PARK SERVICE
P.O. BOX 37127
WASHINGTON, D.C. 20013-7127

Your
National Park Service
Reminds You . . .



"TAKE PRIDE IN AMERICA"

IN REPLY REFER TO
L58(001)

JUN 10 [illegible]

Mr. Tom Mack
President
National Council for Education
  and Economic Development, Inc.
P. O. Box 24079
Washington, DC 20024

Dear Tom:

I appreciated your recent briefing on the incorporation of the National Council for Education and Economic Development, Inc. (NCEED), a non-profit organization, having for its primary purposes examination of the economic, constitutional, legal and social conditions and ramifications of slavery; the history of Afro-Americans; promotion of education and understanding among all people of the American slave experience and its role in the history of the United States; and elimination of barriers of every kind and nature to learning and opportunity faced by disadvantaged children of all races.

You propose to raise an endowment to assure a permanent location of a commemorative structure within the National Park System, together with research, development, implementation and communication of educational and interpretive programs dedicated to understanding, knowledge, opportunity and equality for all people, and that my endorsement of this commendable project does not commit the National Park Service to provide funds or endorse legislation that provides funding.

I understand that your interpretive programs would be developed jointly with the programs of the National Park Service as we move to strengthen our own interpretive programs of the richness and diversity of America's natural and cultural heritage.

I applaud your creative initiative and am pleased to note the significant progress NCEED has already made in pursuit of your very worthwhile goals. The President strongly encourages voluntary efforts from the private sector. With the continued effort of dedicated volunteers, such as you, I am confident that, together, we can make a valued contribution to the preservation and interpretation of our shared American heritage.

With warmest regards and all good wishes, I am

Sincerely yours,

William Penn Mott, Jr.
Director

I agree that if given a permit to cross park land, I will cut no trees. I will restore any damage to ground cover at my expense, and I will complete a permanent access road to the house or private lands within six months.

Mr. Alec Jones

4-15-82

Eddie W Jones

GOVERNMENT EXHIBIT

93-3097

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

EDDIE JONES and BEVERLY JONES,
Husband and Wife — PLAINTIFFS

v. — Civil No. 83-3097

ALEC GOULD and THE DEPARTMENT OF
INTERIOR, SECRETARY OF THE
DEPARTMENT OF INTERIOR — DEFENDANTS

JUDGMENT

On this 7th day of March, 1984, for the reasons set forth in a memorandum opinion filed contemporaneously herewith, the court finds that the complaint of the plaintiffs should be and it hereby is dismissed with prejudice.

IT IS SO ORDERED.

H. Franklin Waters
United States District Judge

U. S. District Court
Western Dist. Arkansas
FILED
MAR 7 1984
Pat L. Graham, Jr., Clerk
By
Deputy Clerk

U. S. District Court
Western Dist. Arkansas
FILED

MAR 7 1984

Pat L. Graham, Jr., Clerk
By
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

EDDIE JONES and BEVERLY JONES,
Husband and Wife
PLAINTIFFS

v. Civil No. 83-3097

ALEC GOULD and THE DEPARTMENT OF
INTERIOR, SECRETARY OF THE
DEPARTMENT OF INTERIOR
DEFENDANTS

MEMORANDUM OPINION

This case results from a dispute about a roadway that runs some 450 feet across lands in Newton County, Arkansas, which comprise a small portion of the Buffalo River National Park.

The United States acquired title to the property known as Tract 14-144 through eminent domain proceedings. Fee simple title to the lands in question was taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines.

At the time of the condemnation proceedings, Newton County officials were given notice of the suit and the County Judge at that time signed a receipt indicating that notice had been received.

The house now occupied by the plaintiffs had earlier been located on lands condemned by the United States as a portion of the acquisition of the lands now comprising the Buffalo River National Park, and the house was advertised and sold to the highest bidder. Plaintiff Jones bid on the house, but his bid was not the high one, so it was sold to another individual from whom Jones ultimately purchased it.

In late 1981 or early 1982 Jones inquired of Alec Gould, the Superintendent of the Park, about moving the house across park land to private land adjoining and requested permanent access across the park lands to the residence. Gould first wrote a letter dated January 25, 1982, mistakenly advising Jones that he could apply for a permanent right-of-way across park lands, but by letter dated March 12, 1982 (Government Ex. 10), he was advised of the mistake and advised that permanent easements across park service land were not permitted.

On April 15, 1982, Jones applied for and was issued a "Special Use Permit" authorizing him, during the period from April 15, 1982, through October 15, 1982, to use park service lands for the purpose of "moving a house across park property onto private land and driving across park land to reach the house for a period not to exceed six months to allow time for the construction of a permanent access road to the house site off park property." (Government Ex. 10) At the same time, he signed a handwritten document stating: "I agree that if given a permit to cross park land, I will cut no trees, I will restore any damage to ground cover at my expense, and I will complete a permanent access road to the house on private lands within six months."

Mr. Jones and his family traversed park lands for ingress and egress to their home for the six-month period granted by the Special Use Permit, and on November 4, 1982, he requested and was granted an extension of the permit until January 31, 1983, upon the same terms and conditions. On January 31, Jones advised the park superintendent that he had started but not completed the road to his house outside the park boundaries and requested additional time. He was granted an extension until June 30, 1983, but by letter received on April 28, 1983, Jones requested that the National Park Service grant him permanent access across park lands. By letter of May 3, 1983, he was again advised that permanent access across park lands was not permitted, and on June 2, 1983, he was told that he must stop using the temporary roadway by June 30, 1983, and that on that date the road would be closed. On July 1, 1983, he was advised by park service personnel that the road would be fenced during the week of July 11, 1983.

On July 6, 1983, Jones obtained an ex parte order from the Newton County Judge prohibiting Gould from closing the road. The United States removed the case from the county court to this court, and on August 17, 1983, after a hearing, this court ruled that the County Judge of Newton County lacked jurisdiction to enter the injunction prohibiting government employees from taking the actions contemplated. On August 22, 1983, the road was fenced by the park service so as to prohibit its use, and on the same day, with substantial news media coverage, County Judge Alton Campbell removed the fence and Chief Park Ranger Mark A. Mosely was cited by the Newton County Sheriff for obstructing a public way. This criminal action was removed to this court and was subsequently dismissed with the acquiescence of all parties. This action was then filed.

Despite the conduct of plaintiff Eddie Jones set forth above which indicates that he recognized at the time that the Special Use Permit was obtained that he had no legal right to traverse park lands, he now contends that the roadway is along an old public road known as "Old Springtown Road," and that the government taking of the land through the eminent domain proceedings did not serve to take title to the roadway or to close it. He admits, in Proposed Findings of Fact and Conclusions of Law required to be filed by the local rules, that "because of the absence of persons living on said road, [it] had fallen into disuse but was never abandoned by Newton County, Arkansas."

At the trial of this case on February 8, 1984, witnesses testifying showed that there had, indeed, years before been a trail or road that traversed the mountainous territory across

Newton County known as the Old Springtown Road, but that in the 1930s a new road to Springtown had been constructed (apparently now a paved county road), and that the Old Springtown Road had, indeed, fallen into considerable disuse.

The testimony shows that there had once been some residences along the old trail, but that no one had lived on it for many, many years. Joe Nance, who had owned the property now owned by Eddie Jones, testified that 40, 50 or 60 years ago there were in fact houses along the road which were occupied, but that they had all been abandoned and no one had lived along the road since at least the 1950s.

Nance testified that at the time that he owned the property, he visited with the County Judge about maintaining the road and was advised that it would be graded when needed, but that he did not have it graded at any time because he didn't want it to be traveled because he did not want it to become a lovers lane or to have trash dumped on it. He said that no one lived on the property during any of that period until Eddie Jones' house was moved onto it, and that there was no need to keep the road open. In fact, he testified that Hilary Jones, the father of Eddie Jones, who owned adjoining property, some time after 1973 or 1974 constructed a fence across the road, obstructing it and making it impossible to travel down it. Neither he nor any other witness could fix the date that the fence was constructed any closer than "after '73 or '74," but he testified that before that there had been an old fence across the road. Nance said that the fence placed by Jones across the roadway after 1973 or 1974 was done by his workers by mistake, and that at the time he had an agreement with him that the road would stay open and that the fence would be removed if he requested it. The fence was maintained across the roadway until it was removed by park service employees in 1978 after the lands then owned by Hilary Jones had been condemned.

Hilary Jones testified that there had been very little use of the Old Springtown Road since the new one was built in the 1930s, and that it had been relatively unused during the 1960s and 1970s. At the time that the Special Use Permit described above was issued, Hilary Jones owned property across which Eddie Jones could build a roadway to his residence without traversing park property, and on April 2, 1982, he signed and delivered to his son a handwritten easement granting him permission to cross his lands to the residence. At the trial, Hilary Jones testified that that property had since been deeded to other of his children.

The County Judge, Alton Campbell, testified that it was the policy of the county to discontinue the maintenance of old roadways when there were no longer residences along them, and that the Old Springtown Road had not been maintained for many years. However, he said that he considers that once a road becomes public it is always a public road, and that if someone moves on to an old roadway which has been abandoned, he then begins to maintain it and it retains its status as a public road. He admitted that the county road maps of 1963 and 1973 introduced as Government Exhibits 2 and 3 did not show this old road as a county road, but he said that there were many roads in the county which he considered to be public roads not shown on the county road maps.

In addition to the testimony and evidence set forth above, there was other testimony and evidence showing that the old road had not been maintained for many years and had not regularly been used by the public for at least twenty years. Certainly, since around 1973 or 1974 it had not been used, because it was undisputed that a fence across the roadway had been maintained since that time and, as indicated above, even prior to that there had been an old fence across it.

In their brief filed in this case, plaintiffs contend that "once color of title to a road was established by adverse possession of the public, it became incumbent on landowners to show abandonment." In support of this they cite Wade v. Moody, 255 Ark. 266, 500 S.W.2d 593 (1973). Thus, they seem to agree that if the public has any right to use the roadway, it is a prescriptive one, having been acquired by long usage by the public. They then argue that the public, having once acquired a right to use the roadway, continues to have that right unless the evidence shows that there was abandonment. They contend that it is the government's burden to show such abandonment, citing Wade, supra, and it is true that there is language in that decision which may be read to indicate that the burden of showing abandonment is upon the United States. At p. 272 of that opinion, the court said: "Once color of title was established by adverse possession, it became incumbent upon appellant to show abandonment." However, it is not at all clear that such is the burden of the government. In Raney v. Gunn, 221 Ark. 10, 253 S.W.2d 559 (1952), a case with similar facts, the court said:

> The public's use of this road was based on its passage over the property, not by dedication through a governmental or quasi-governmental agency. When the landowner restricted such use by erecting gates in 1928 and maintaining them subsequently, members of the general public ceased to use the road. This constituted an abandonment. Appellee's rights were not dependent upon affirmatively establishing adverse possession. Instead, appellants had the burden of proving that a prescriptive right to use the road still existed, and they failed.

Thus, it is not at all clear that, in Arkansas, the burden is on the landowner to show abandonment.

Be that as it may, irrespective of who has the burden in this case, the court has no difficulty in finding that, without question, the preponderance of the evidence in this case shows that if the Old Springtown Road was ever a public road, it was abandoned by the public many years ago, and certainly considerably longer than seven years prior to this controversy. As indicated above, it was certainly not used by the public since the new fence was constructed across it in approximately 1973 or 1974 and, to say the least, the evidence shows that it was more than likely abandoned by the public and no longer used as a public way, if it ever was, from the time that the New Springtown Road was constructed in the 1930s. The law clearly is that even where the public has acquired a right to use a roadway by prescription, such right will be lost and the roadway considered to be abandoned if it is not used or use is restricted for at least seven years. In the case of Brooks v. Reedy, 241 Ark. 271, 407 S.W.2d 378 (1966), the Arkansas Supreme Court, in holding that the maintenance of even a gate across a roadway for more than seven years causes the right of the public to be lost, said: ". . . Arkansas cases hold that, even where an easement has been acquired by prescription, the public and private individuals lose such easement, if the owner maintains gates for the period of limitations."

That case, and other Arkansas cases such as Porter v. Huff, 162 Ark. 52, 257 S.W.2d 393 (1924); Mount v. Dillon, 200 Ark. 153, 138 S.W.2d 59 (1940); and Munn v. Rateliff, 247 Ark. 609, 446 S.W.2d 664 (1969), hold that where a landowner maintains a gate across a roadway for more than seven years, the public loses the right to use the roadway, even if the gates are left unlocked and members of the public are permitted to continue to traverse it. Since that is the law, there is little question that the maintenance of a fence across Old Springtown Road from somewhere around 1973 or 1974 causes the public to lose its right to use it, if it ever had such a right.

In _Munn v. Rateliff_, _supra_, the Arkansas Supreme Court succinctly and straightforwardly answered plaintiffs' and County Judge Campbell's contention that "once a public road, always a public road," by stating: "We cannot agree." Likewise, that court also, in _Brooks v. Reedy_, _supra_, foreclosed the contention now made by the County Judge and the plaintiffs that the county would maintain the road if requested and that, thus, it must be a public road, by saying: "In the first place, maintenance of the road by the county does not make the road a county road."

In short, the court finds that the evidence in this case heavily preponderates in favor of a conclusion that the roadway in question, if it ever was a public one, had, long ago, lost any such status and that it was not, when the government acquired Buffalo River National Park lands by eminent domain, a public road and that, thus, neither the plaintiffs nor the public have a right to continue to use it. Plaintiffs' actions in this regard indicate, without question, that they also recognize that the roadway in question was not a public road. Otherwise, why did plaintiff Eddie Jones apply for a Special Use Permit, and why did he agree in writing to build a roadway to his property across non-government lands during the period for which the Special Use Permit was granted. It is true that plaintiffs' attorney argues that such evidence should not be considered by the court since Jones "was without authority or right to change the character of the road, and certainly without power to bind Newton County by his actions." Of course, Newton County is not a party to this action, but, in any event, the court believes that such evidence was relevant and admissible to show that Eddie Jones, whose family had lived in the area for many years, did not really believe, before this controversy arose, that the road that they now call the Old Springtown Road was, in fact, a public road, or that he had any right to use it to gain access to his property. The evidence shows that Mr. Jones, "with his eyes wide open," bought the residence that he now occupies at a public sale held by the government and then moved it to where it is now located, across public lands, after obtaining a limited authorization to do so, and after promising that he would, within a prescribed time, provide other access to his home. In short, he was misled by no one and he invited his present predicament. As indicated above, the evidence indicates that he has other access to the property across lands once owned by his father, and now owned by other members of his family. In fact, the easement signed by his father and introduced in evidence as Government Exhibit 9, presumably gives him access to the property.

In any event, the court finds that he has no right to use a part of the Buffalo River National Park lands for access to his residence, and his complaint will be dismissed with prejudice.

A separate judgment in accord with this memorandum opinion will be concurrently entered.

This 7th day of March, 1984.

H. Franklin Waters
United States District Judge

Testimony of the Department of the Interior
Before the Senate Energy and Natural Resources Subcommittee on Public Lands, Reserved Water and Resource Conservation

July 31, 1986

Introduction

Mr. Chairman and Members of the Subcommittee, the Department appreciates the opportunity to provide testimony for the record on S. 2159, a Bill to Designate the Big Sur National Forest Scenic Area. The Department believes that several provisions of the bill could have unwarranted and adverse effects on both our onshore and offshore leasing programs. Any legislation including these, or similar provisions, is unacceptable.

Impacts To The Offshore Leasing Program

As you may be aware, section 10 of S. 2159 would permanently withdraw from oil and gas leasing and development a sizeable portion of the nearshore area of the Central California Outer Continental Shelf (OCS) planning area. The Department of the Interior strongly opposes legislation that would permanently remove prospective OCS areas from future oil and gas leasing consideration. In fact, we believe the inclusion of section 10 is itself sufficient reason to recommend veto of this legislation.

When the OCS Lands Act (OCSLA) was passed in 1953, it set up a regulatory framework for the exploration and development of the Nation's OCS . The Act was subsequently amended in 1978 after Congress had gained almost a quarter-century's experience with OCS leasing. These amendments not only replaced the somewhat general language of the 1953 Act with specific policies and directives, but also instituted extensive consultation and balancing provisions (i.e., sections 18 and 19) for the Department to follow when making decisions with regard to each major phase of OCS leasing, exploration and development activity. Specifically, the Secretary must consult with affected States prior to leasing decisions and must accept their recommendations unless they do not provide for a reasonable balance between the national interest and the interests of a State.

These consultation and balancing provisions are carefully constructed and allow for input from affected parties throughout the leasing process, thus providing an excellent forum for States, local governments, and others to influence the decisionmaking process. Consultation efforts regarding specific lease sales have resulted in acreage being deleted from leasing consideration and the imposition of special environmental stipulations for certain areas. Also, in developing the next 5-Year OCS Oil and Gas Leasing Program, the Secretary has taken into account the concerns of numerous States by proposing to defer from leasing consideration certain especially sensitive areas. He has proposed to defer nine such areas off the coast of California alone. In short, the process outlined in sections 18 and 19 of the OCS Lands Act Amendments work as intended and are an excellent mechanism for resolving resource management issues. In contrast, section 10 of the bill is an arbitrary exclusion which has not undergone the rigorous analysis and balancing requirements mandated under the OCS Lands Act. In effect, it attemps to circumvent those processes and, as such, is a backdoor attempt to amend the OCS Lands Act.

In addition, since the leasing program offshore California has been a contentious one for so long, extraordinary efforts have been made to resolve the long term question of the proper role of California in our national energy policy. P.L. 99-190 specifically set up a special congressional panel to provide the

Secretary with an appropriate range of advice on the issue. The House Appropriations Committee recently added a section to H.R. 5234 (the Department of Interior's Fiscal Year 1987 appropriations bill) which instructs the Secretary to consider the proposals of the special congressional panel and the Governor of California in developing the California portion of the next 5-year program for 1987-1992.

Therefore, the question of the appropriateness of leasing certain areas offshore California, including the area offshore Big Sur, are already being addressed. In light of these actions, this, we view section 10 of S. 2159 as both an inappropriate forum for resolving the issue and as a measure which will undercut the processes already in place to resolve the matter.

Impacts To The Onshore Leasing Program

Section 5(f)(1) would withdraw from entry or appropriation under the mining laws of the United States, from operations of the mineral leasing laws of the United States and from the Geothermal Steam Act of 1970, all federally owned lands and interests therein within the Scenic Area. We are opposed to the area being withdrawn from the operation of the mineral leasing laws, which make leasing discretionary with the Secretary. We believe that it may be possible to have any mineral development conducted in accordance with appropriate stipulations and conditions so that there is very little impact on the other resource values of a Scenic Area.

Description Of The Offshore Area Proposed For Permanent Withdrawal

The subject bill would establish the Big Sur National Forest Scenic Area in the State of California for the principal purpose of preserving the natural resources and scenic vistas of a portion of the Pacific coast. While the bill would primarily affect the onshore Big Sur coastal area within and adjacent to the Los Padres National Forest in California, section 10 of the bill and the provisions concerning viewshed would have a direct impact offshore.

The offshore area covered by section 10 of the bill includes 70 miles of coastline and extends approximately 20 miles offshore (see attached map). The area encompasses 132 whole blocks and 40 partial blocks in Federal waters for a total of nearly 1,300 square miles or 873,024 acres. The area straddles the boundary between, and in fact, lies completely within, the area covered by two of the subareas deferred already by the Secretary in the Proposed 5-Year OCS Oil and Gas Leasing Program for Mid-1987 to Mid-1992. The two areas are the Monterey Bay area, consisting of 104 blocks and 516,315 acres, and the Big Sur area, consisting of 460 blocks and 2,497,917 acres. They extend 131 miles offshore.

Resource Potential

Much of the OCS leasing and drilling activity and the known resource potential off California lies adjacent to and immediately south of the area included under section 10 of S. 2159. Although there is no existing or imminent activity proposed for the area, to withdraw this area from OCS oil and gas leasing and development consideration on a permanent basis is unwise and a serious breach of the careful balancing process of the OCSLA. Such an action could tie up a resource with a possibly significant potential for the foreseeable future, resulting in a law that would run counter to the Nation's goals of energy self sufficiency and contrary to the Administration's energy policy objectives.

Preliminary estimates are that approximately 25 to 35 percent of the undiscovered oil and gas resources of the Central California planning area would be prohibited from future offshore leasing consideration if the provisions of this bill are enacted into law. A study is underway at this time which will provide a more definitive estimate for the potential oil and gas resources in the affected offshore area. It is anticipated that this study should be concluded in early August 1986.

The area that would be withdrawn for leasing consideration under S. 2159 lies in the Central California planning area just to the north of the prolific portions of the Santa Maria Basin that have been explored. The northern part of the Santa Maria basin occurs within the area defined in section 10 and remains unexplored, although having high to moderate hydrocarbon potential. The overall hydrocarbon potential of the Central California planning area is considered good. Discoveries of hydrocarbons have been made in adjacent onshore basins in formations that also occur offshore. Also, oil and gas seeps occur naturally offshore in the Central California planning area. Both the presence of hydrocarbons onshore and the occurrence of natural seeps offshore offer encouragement regarding the area's oil and gas potential.

Experience over the past century as well as major discoveries in the past decade just to the south of the Central California planning area, especially those discoveries in the southern Santa Maria Basin, have shown that areas offshore

California are a prolific source of oil and gas. The basins in the Central California planning area have been unavailable for exploration for about two decades. Exploratory drilling on 17 leases in Central and Northern California drilled from 1963-1967 demonstrated the presence of hydrocarbons. While these hydrocarbons were not regarded as commercially developable at that time based on then current engineering practices and 1960's oil prices, these same hydrocarbon areas would now be regarded as highly promising under existing and projected market and technological conditions.

Offshore Environmental Safeguards

It is unclear from the language of S. 2159 as to why the proposed offshore area is being recommended for permanent withdrawal. It is assumed that it is for perceived environmental and/or aesthetic reasons. However, the OCS program has an exemplary record of providing environmental safeguards. The Minerals Management Service (MMS) provides assurance that offshore operations are environmentally safe and has a rigorous inspection and monitoring program to ensure the safety and reliability of drilling and production activities. The risk of an offshore mishap is extremely low.

In 1969, Santa Barbara was the site of the only major oil spill from a blowout in the course of drilling some 31,000 wells in State and Federal waters. The effects of the spill were temporary and not nearly as severe as originally feared. Biologists from the University of California and elsewhere reported that bird, fish, and benthic populations were back to normal in little more than a year.

More importantly, America resolved there would not be a recurrence of that accident. Beginning in 1970, new regulations went into effect which required subsea blowout preventers, more frequent inspections, oil spill contingency plans, establishment of oil spill cleanup centers, worker training programs, unannounced cleanup drills and other measures. Oil spill prevention and cleanup technologies and methods improved markedly.

The environmental record and the oil spill prevention record in particular since 1971 has been outstanding. That record is worthy of further mention.

° For the years 1971-1984, a total of less than 850 barrels have been lost due to blowouts, out of nearly 5 billion barrels produced from the entire Federal OCS.

° In 1985, only 18 barrels of oil and condensate were spilled as a result of exploration and development activities on the California OCS out of nearly 30 million barrels produced.

Several comparisons with oil pollution from other sources will help put this excellent record into even better perspective.

° According to MMS and Coast Guard data, during the period 1975 to 1983 when all aspects of OCS operations lost fewer than 21,000 barrels of oil, tanker accidents in U.S. waters caused the loss of about 1.3 million barrels.

- A 1978 study by the California State Lands Commission reported that natural seeps along the California coast discharge between 18,000 to 278,000 barrels of oil every year into California offshore waters.
- The 1985 National Academy of Sciences report "Oil in the Sea: Inputs, Fates and Effects," noted that the two most important causes of marine oil pollution were tankering and municipal wastes with each contributing about 21.5 percent, while OCS production accounted for less than 2 percent.

There has been concern expressed that the oil industry and the Government do not have the ability to predict, detect or control oil spillage resulting from OCS operations. However, those fears are overstated. First, the MMS Oil Spill Risk Analysis (OSRA) model has been shown to give realistic estimates of surface trajectories off the California and other coasts. For example, numerous oil spills, including the Santa Barbara spill, and surface drifters off Southern and Central California have been run back through the model and have been shown to provide very realistic estimates. (Amstutz and Samuels 1984, and Lanfear and Samuels 1983.)

The National Oceanic and Atmospheric Administration (NOAA) real-time trajectory model which was used for on-scene oil spill movement prediction during the "Puerto Rican" incident provided accurate information for essentially 12 out of 13 days the oil was at sea (Galt 1984). The MMS OSRA model, which provides a more climatological approach to spill modeling, had previously estimated probabilities ranging from 26 to 51 percent that oil spill launches from tanker routes near the actual site of the "Puerto Rican" incident would contact the Farallon Islands. Thus, the OSRA fairly accurately predicted what actually did take place. (U.S. Geological Survey Open File Report No. 83-563, page 33.)

There is very little validity to the expressed concern regarding spill detection. Operators are required to report all spills, and to that end, a wide variety of instruments are incorporated into every path taken by oil and gas on offshore platforms. Therefore, the chance of a significant leak developing without registering on constantly monitored instruments is very small. Further, each drilling and production platform has a specific oil spill contingency plan which comes into play immediately upon discovery of an oil leak.

The "Puerto Rican" and the "Alvenus" can both be used to point out one additional fact. Neither vessel had anything to do with nearby OCS operations. Both vessels were carrying imports. The Department has long maintained that reliance on OCS oil is safer than allowing large numbers of such tankers, none of which maintain containment and cleanup equipment, as do OCS operations, to supply such a large percent of our oil needs. Since 1975, fewer then 21,000 barrels of oil have been lost from all OCS activities while tanker accidents in the U.S. waters caused the loss of over 1.3 million barrels. Even more impressive is the record offshore California. In 1985, only 18 barrels of oil from all exploration and production operations were lost as a result of accidents.

Finally, concerns that the discharge of large amounts of toxic drilling fluids (muds, cuttings, and produced waters) will pose a serious threat to the surrounding environment are inconsistent with the 1983 National Academy of Sciences report entitled "Drilling Discharges in the Marine Environment." First, some components of drilling fluids can be toxic, but the vast majority of the material is not, and quick dispersal into the active marine environment renders the components not only essentially harmless but difficult to even detect in many instances. Further, the discharge of such materials is subject to discharge permits issued by the Environmental Protection Agency (EPA). If these materials were as dangerous to the environment as has been implied, then the Gulf of Mexico, where over 22,000 wells have been drilled to date, would not be one of the most important fishing areas in the United States. Therefore, based on the outstanding safety and environmental record of offshore operations, it is our conclusion that a withdrawal of acreage is unwarranted for environmental reasons.

View

Another issue raised in S. 2159 concerns the ocean view. Section 7(c)(2) of the bill would authorize the Secretary of Agriculture to issue regulations which specify standards by which the Secretary shall determine what changes in the Big Sur Coast Land Use Plan would be inconsistent with the purposes of the bill. These standards shall have the object, among other things, of preserving the "critical viewshed" of the area as defined in the plan. The Department strongly opposes the granting of authority which could prohibit OCS operations by regulation for viewshed considerations. Inclusion of such a concept in S. 2159 is both unwarranted and unacceptable.

The opportunity to have an uncluttered view of the open ocean without the presence of mobile drillships, exploration rigs, or oil production platforms is the one space-use conflict over which the Department has no practical control. We cannot ensure unimpeded coastal vistas in all places at all times if we intend to help meet the Nation's energy needs with a responsible OCS Leasing program whose success depends on access to California's potentially abundant offshore resources.

There may be some misimpressions about the risk to one's view that may result from Federal offshore operations. Many fear, for example, that the area offshore California would be turned into a continuous series of oil rigs and production platforms. At any given time few, if any, exploration rigs would be present along the 70-mile stretch of the Central California coast covered by section 10 of S. 2159. Moreover, exploration drilling is a temporary activity lasting only weeks and, at most, a few months.

Just as Californians should not expect a forest of rigs to proliferate along their coast as a result of OCS leasing, neither should they overestimate the visual impact of the relatively few offshore structures that may result from successful exploration. No offshore structure would be erected within 3 miles of shore. Few production platforms are likely to be installed. In fact, only one platform is projected in the 5-year program draft EIS scenario for all of the Central California planning area in the base case analysis. Only three such platforms are projected in the high development scenario.

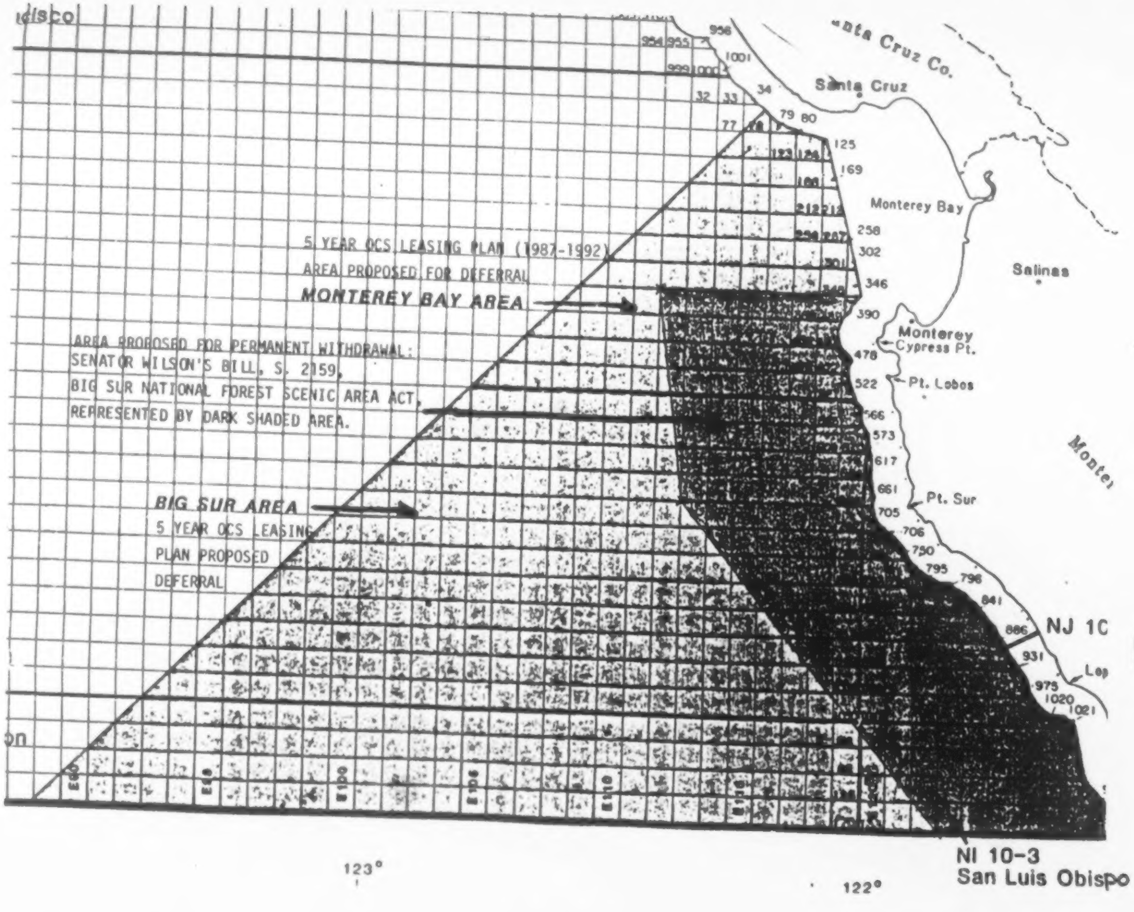
Based on these considerations, it is our conclusion that the temporary nature and the relatively insignificant visual impact of offshore operations do not warrant the permanent withdrawal of the section 10 acreage for visual or aesthetic reasons.

Effect of S. 2159 on Future Pacific OCS Leasing

Due to disappointing drilling results in other areas of the OCS (i.e., offshore Alaska and the Atlantic), the California OCS is becoming more and more important to the national OCS program. However, S. 2159 would significantly and permanently diminish (by one-fifth) the coastal area available for leasing in the Central California planning area. The coastal area is the most likely area to be developed with current technology due to the more shallow water depths. Industry interest is high in all three California planning areas, and a permanent exclusion would preclude leasing in this area even in a national emergency or if new information were obtained indicating the presence of significant oil resources in the area. Also, since this area is just north of the prolific Santa Maria Basin and is known with certainty to share the same oil-bearing formation, there is a good chance that it too could be a significant hydrocarbon bearing area.

It should also be remembered that the area described in section 10 of S. 2159 has already been proposed for deferral from leasing as part of the planning process for the 5-year OCS leasing program covering the period 1987-1992. It is our view that this approach is preferable to an arbitrary permanent removal as would occur under S. 2159 since the 5-year program planning process is analytical, takes a reasoned and rational approach to the question of deferral of specific subareas, and only covers a limited time span.

Finally, the presale process and the section 19 consultation requirement of the OCS Lands Act are designed to accommodate sensitive offshore areas. Under the sale-specific presale process, such sensitive areas can be dealt with on a case-by-case basis. These statutory provisions make the a priori decision to permanently remove specific subareas from future leasing consideration both unnecessary and unwise.


5 YEAR OCS LEASING PLAN (1987-1992)
AREA PROPOSED FOR DEFERRAL
MONTEREY BAY AREA

AREA PROPOSED FOR PERMANENT WITHDRAWAL:
SENATOR WILSON'S BILL, S. 2159,
BIG SUR NATIONAL FOREST SCENIC AREA ACT,
REPRESENTED BY DARK SHADED AREA.

BIG SUR AREA
5 YEAR OCS LEASING
PLAN PROPOSED
DEFERRAL

Santa Cruz Co.
Santa Cruz
Monterey Bay
Salinas
Monterey
Cypress Pt.
Pt. Lobos
Pt. Sur
NJ 10
NI 10-3
San Luis Obispo
123°
122°
954
955
956
999
1000
1001
32
33
34
77
79
80
125
169
258
302
346
390
478
522
566
573
617
661
705
706
750
795
796
841
886
931
975
1020
1021

Senator **Wallop**. Thank you.

Senator Bumpers.

Senator **Bumpers**. Mr. Chairman, first let me say that most everything the Park Service has said about this case is true.

Eddie Jones is just a private citizen, no better and no worse than anybody else that ever sought access across park lands. And it is true that he signed the document saying he wanted temporary access across this park land in order to move a house in there and renovate it and so on, and later on sought access when it was shut off to him by the courts.

The quote from the court decision as set out in your testimony is absolutely accurate. And the most accurate thing you say in there is that the only argument in favor of Eddie Jones getting access is an equitable one.

But let me ask you something. What is wrong with an equitable argument?

Mr. **Galvin**. My testimony says that we see no equitable argument there. He has access to his property outside the boundary of the park. We see no reason for the need to provide access to his property across park lands.

Senator **Bumpers**. You say, "Since the courts have found no legal right to such access, the only basis for granting such a benefit would be a powerful, equitable argument in favor of this one individual." I want you to know that I agree with that. I could not stand here and make a legal argument that Mr. Jones did not indeed go into this with his eyes open. But by the same token, he is just a taxpaying citizen. The only justification for it is that he really did not understand what he was getting into.

I know that has never happened to you, Mr. Galvin, but it has to me. Mr. Jones found out that the road he was going to have to use, which is 1.2 miles—that means every time he goes to his house and leaves—it is almost 2.5 miles—the road is impassable in the wintertime because of snow and ice and when the creek is up. He has children and, because of the condition of the road in bad weather, he cannot take them to the doctor if they happen to get sick in the middle of the night, he cannot get his children to school on bad-weather days.

Eddie Jones is a fairly young guy and I tell you, in my opinion, Eddie probably was not thinking about the condition of the road at the time he agreed to all this. Our State is very proud of the Buffalo National River, which I strongly champion and which my predecessors Senator McClellan and Senator Fulbright got done before I got here. I have continued their good work and I have happily been able to secure funds every year to continue work on the Buffalo. Land acquisition is now completed. We have spent all the money acquiring something like 92,000 acres of land up and down that river. It is a magnificent place. You are talking to one guy who would not denigrate it. He would not do anything that would deteriorate the esthetic value of that national river. It is one of the most priceless treasures we have in Arkansas. But here is an old county road 400 feet about, I would say, four times—let me see, what would this room be? Is this 50 feet in here?

Senator **Wallop**. More, maybe.

Senator BUMPERS. Maybe more. We are talking about something maybe seven times the length of this room across what has been a road. And it is true. It is an equitable argument. But it seems to me that it is a very good equitable argument.

Is the Government not ever supposed to make a concession where the equities strongly weigh in favor of it?

Mr. GALVIN. Oh, I think our position is that if the equities strongly weighed in favor of Mr. Jones, if this were the only access to his house, our position would be different. But we do not see a strong equitable argument.

Senator BUMPERS. You see nothing wrong with all the statements I just made a moment ago that he cannot take his children to the doctor on occasion; he cannot send his kids to school on occasion?

Mr. GALVIN. If that is the case, that certainly is a factor.

Senator BUMPERS. Have you seen the road, Mr. Galvin, that he has to travel to get to his house?

Mr. GALVIN. No, I have never visited the site. I am not familiar with the details on the ground. However, those equitable arguments, I assume, were advanced in the court.

Senator BUMPERS. Well, the court was not dealing with equities; the court was dealing with the legalities of it. The niceties are much finer when you are making legal arguments than they are when you are talking about a red-blooded human being who needs help.

I am asking you if the government is supposed to turn its back on a person when there is a powerful legal argument against him. Because he went into a situation with his eyes open, should he be barred forever from getting any relief from a generous, caring, magnanimous government?

Mr. GALVIN. No, sir. I would not take that position.

The question is in this case, I think, whether those arguments——

Senator BUMPERS. As the French would say, this is just a bagatelle, is it not, 400 feet on an existing road. I promise you there are no trees growing on this right-of-way we are asking for. You know Eddie will pay you for it. You make the point that nobody has offered to pay. I am sure—I have not even talked to Eddie about it—but I am sure he would be happy to pay, an appraised value for it.

Is that a hangup with the Park Service?

Mr. GALVIN. No. We just note that the legislation is silent on that matter. We are not——

Senator BUMPERS. Well, I drafted the legislation, so I will take the blame for that. Do not blame Eddie for that. It just never occurred to me that we ought to charge him. But he would be happy to pay for it.

Mr. GALVIN. We were not blaming anybody for it. We were just noting that the legislation was silent.

Senator BUMPERS. That is all, Mr. Chairman.

Senator WALLOP. Thank you, Senator Bumpers.

Thank you, Mr. Galvin.

Assistant Secretary Dunlop, on the Big Sur legislation.

STATEMENT OF GEORGE S. DUNLOP, ASSISTANT SECRETARY, NATURAL RESOURCES AND ENVIRONMENT, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. DUNLOP. Thank you, Mr. Chairman. Are you ready for me to proceed?

Senator WALLOP. Please proceed.

Mr. DUNLOP. The administration appreciates this opportunity to appear before the subcommittee to offer its views on S. 2159, a bill that would establish a National Forest Scenic Area in the Big Sur region of the California coast.

Mr. Chairman, the administration agrees that the Big Sur area is an area of spectacular beauty that requires careful planning and protection. Indeed, it is our view that this planning is being accomplished under existing laws and regulations through close coordination between Federal, State, and local levels of government.

First of all, I should mention that the ongoing forest land management planning activities for the Los Padres National Forest will result in a final plan within the year. The draft plan is out sometime since the first of this year and is in public hands.

Also, as the committee knows and has heard testimony today, the Big Sur coast land use plan prepared by Monterey County was approved by the California State Coastal Commission in January of this year. Both these plans have had extensive public review and comment.

That said, I must report that the administration opposes the enactment of S. 2159 unless the following portions of the bill which are unacceptable to us are deleted or substantially amended as recommended. We have eight specific recommendations we would make in that regard:

First of all, the Secretary of Agriculture should not have the authority to regulate private land use. This authority should remain with State and local governments.

Second of all, the Scenic Area Advisory Board should not be appointed by the Secretary of Agriculture in the judgment of the administration. Appointments made by the Governor of California would be more appropriate. The Board should advise the State and local authorities, not the Secretary of Agriculture, regarding compliance with the Big Sur coast land use plan.

Third, the Secretary of Agriculture should not have the authority to acquire lands outside of the national forest boundary and certainly not to manage lands acquired by others. As the bill is written, the potential costs with this type of management or activity or responsibility, could be enormous. In fact, it is unended and we simply cannot support legislation which has open ended potential costs to the Treasury of the sort that could result from that provision.

No. 4, the Secretary of Agriculture should not be required to prepare a comprehensive management plan for the entire Big Sur area. This is really an unnecessary and inappropriate Federal role, in our judgment, properly left to entities of the State and local governments.

No. 5, we do agree that the provisions in the bill that provide for the trust are bold and innovative and creative and worthy of emulation all over the country. But we do believe that the trust should not be an agency or an establishment of the United States. We believe that it should not be financed by the Federal Government and that its board should be appointed by non-Federal authorities such as the Governor, or as otherwise might be designated.

No. 6, we do not see sufficient justification for the bill's provision to withdraw lands from mining or mineral leasing, and we recommend that such provisions be deleted.

No. 7, the bill should not contain language found in section 3 regarding protection of what we would call the viewshed which would set a precedent that could be extremely difficult and expensive to administer, probably impractical really, and could have the effect of prohibiting development of the Outer Continental Shelf, which would be very much opposed by the administration.

And then finally I should say in that regard that it must be made very clear that the administration is strongly opposed to legislative withdrawals of the Outer Continental Shelf from oil and gas leasing or other economic uses. We simply cannot accept any provision of this bill that would have that effect.

It is my understanding, Mr. Chairman, that the Department of Interior is submitting a prepared statement for the record elaborating on the administration's position on this issue and on the other mineral impacts of this legislation.

In summary, then, while the administration applauds the efforts to protect the Big Sur area, we simply must oppose enactment of S. 2159 unless substantial amendments are made. We believe, in summary, that the State and local governments have the responsibility and the ability to carry out necessary land use plans and regulations without increased Federal involvement.

Further, the U.S. Forest Service will continue to manage the Los Padres National Forest in accordance with all appropriate Federal laws and in close and careful cooperation with State and local authorities.

Mr. Chairman, that concludes my prepared statement. I would be certainly willing to entertain any questions that the committee may have.

Senator **Wallop**. Thank you, Mr. Dunlop. I appreciate it.

I am going to start timers here now.

Senator Wilson.

Senator **Wilson**. Mr. Chairman, I will not ask any questions. I will make an observation. First, I should state for the record that Secretary Dunlop is an old friend and a good one. I hope he will not be offended when I say that whoever prepared that testimony obviously has not read the bill, at least not carefully, because the first five points are thoroughly contradicted by what I think is reasonably explicit language.

The Secretary's responsibilities are with regard to the Federal lands. The same responsibilities he has now, except with the directive that he conform his exercise of that responsibility to uses that are permitted and only those permitted by the county's plan. But beyond that, I would say that I can hardly wait for the Department of Interior's testimony. I might send it back to them with a quote from the Secretary, indicating his intention to excise the part of the Outer Continental Shelf that abuts Big Sur.

That is all. When is the record going to close, Mr. Chairman?

Senator **Wallop**. Three weeks.

Senator **Hecht**. Mr. Chairman.

Senator **Wallop**. Senator Hecht.

Senator **Hecht**. I have a group of questions which I had fully intended to ask this morning to the Department of Agriculture, but in the essence of time I would like to submit them for the record and ask that they be answered by the Department.

Senator **Wallop**. By all means.

Mr. **Dunlop**. We would be delighted to do that, Mr. Chairman.

[The questions and answers follow:]

Chic Hecht

QUESTIONS FROM SENATOR HECHT FOR
THE DEPARTMENT OF AGRICULTURE

(1) I am informed that the proposed Scenic Area contains a major high-grade white limestone deposit. Is that true?

(2) Can you tell me how many other sources of high-grade white limestone exist in the United States?

(3) As I read this legislation, it would require the Forest Service to regulate the use of its lands within the Scenic Area in a manner consistent with the local Land Use Plan. Is that true?

- o As I understand it, the local Land Use Plan contains at least thirty prohibitions agains commercial development of the Pico Blanco limestone deposit. If that is the case, would the Forest Service be required to include those prohibitions in its management plan for the Scenic Area?

- o In your opinion, would the regulation of the Pico Blanco limestone deposit, in a manner consistent with the local Land Use Plan, constitute a taking requiring compensation to the holders of the unpatented mining claims at Pico Blanco?

(4) Is it true that the Forest Service completed an Environmental Assessment on the Pico Blanco limestone deposit in 1981?

- What was the result of that Environmental Assessment?

- To your knowledge, has anything changed at Pico Blanco since 1981 from an environmental standpoint?

(5) In your opinion, is there any good reason to include this valuable mineral resource within the Scenic Area?

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

DEC 17 1986

Honorable Malcolm Wallop
Chairman, Subcommittee on Public Lands,
Reserved Water and Resource Conservation
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

On November 3, 1986, you transmitted questions from Senator Hecht regarding the July 31 hearing on S. 2159, a bill to designate the Big Sur National Forest Scenic Area.

The enclosed response has been prepared by the Forest Service with input from the U.S. Geological Survey. If we can be of further assistance, please let us know.

Sincerely,

Geo. S. Dunlop

GEORGE S. DUNLOP
Assistant Secretary
Natural Resources and Environment

Enclosure

RESPONSES OF THE DEPARTMENT OF AGRICULTURE TO QUESTIONS FROM SENATOR HECHT REGARDING THE PROPOSED BIG SUR NATIONAL SCENIC AREA IN CALIFORNIA (S. 2159)

(1) I am informed that the proposed Scenic Area contains a major high-grade white limestone deposit. Is that true?

Yes, The Pico Blanco limestone deposit has been classified by the California Division of Mines and Geology as an area with "Significant Mineral Deposits Present".

(2) Can you tell me how many other sources of high-grade white limestone exist in the United States?

Although there are other limestone deposits in California, only one high grade white grinding limestone deposit is presently being mined in California. This other deposit is located in the Lucerne Valley of San Bernadino County. Across the Nation, many high grade limestone deposits have been identified (discovered), but few are currently in production. However, information on the exact number of high grade white limestone deposits in the United States is currently not available.

(3) As I read this legislation, it would require the Forest Service to regulate the use of its lands within the Scenic Area in a manner consistent with the local Land Use Plan. Is that true?

No, S. 2159 would not require the Forest Service to regulate the use of National Forest System lands within the Scenic Area in a manner consistent with the local Land Use Plan.

o As I understand it, the local Land Use Plan contains at least thirty prohibitions against commercial development of the Pico Blanco limestone deposit. If that is the case, would the Forest Service be required to include those prohibitions in its management plan for the Scenic Area?

The Forest Service has not counted the prohibitions against commercial development in the local Land Use Plan. There is currently no statute or Forest Service direction that would require the Forest Service to adopt local Land Use Plan prohibitions against commercial development in our management plan for the Big Sur Scenic Area.

o In your opinion, would the regulation of the Pico Blanco limestone deposit, in a manner consistent with the local Land Use Plan, constitute a taking requiring compensation to the holders of the unpatented mining claims at Pico Blanco?

Should valid existing rights be established for said unpatented mining claims under provisions of Sec. 5(f)(1) of S. 2159 and if management of the Pico Blanco limestone deposit had to be consistent with the local land use plan prohibiting against commercial development, it would probably constitute a taking requiring compensation to the holders of the subject unpatented mining claims.

(4) It is true that the Forest Service completed an Environmental Assessment on the Pico Blanco limestone deposit in 1981?

The Forest Service prepared an Environmental Analysis (EA) on Granite Rock's August 28, 1980, Plan of Operations for activities to begin in May of 1981. The EA was approved February 26, 1981.

o What was the result of that Environmental Assessment?

The EA resulted in the selection of an alternative which was to approve a modified plan of operations submitted by Granite Rock. The approved plan includes work on five mining claims involving a total of only 7 acres of surface disturbance over a 5-year period. Granite Rock's approved plan of operation expired on February 26, 1986.

o To your knowledge, has anything changed at Pico Blanco since 1981 from an environmental standpoint?

There has been no change at Pico Blanco since 1981 from an environmental standpoint.

(5) In your opinion, is there any good reason to include this valuable mineral resource within the Scenic Area?

In our opinion, the Pico Blanco limestone deposit should not be included in the Big Sur National Forest Scenic Area.

Senator WALLOP. Thank you very much, Mr. Dunlop. We appreciate it.

Let us then move to the first panel, which is Karin Strasser Kauffman, supervisor of district 5, Monterey County; and Ms. Donna Grace Marek, Carmel City Council.

Good morning to you both.

Ms. KAUFFMAN. Good morning, Chairman Wallop and committee members.

Senator WALLOP. We have not met, but I see by the initials that you are Supervisor Kauffman.

STATEMENT OF KARIN STRASSER KAUFFMAN, SUPERVISOR, DISTRICT 5, MONTEREY COUNTY, MONTEREY, CA

Ms. KAUFFMAN. Yes, I am Karin Strasser Kauffman, supervisor of Monterey County and specifically supervisor with the Fifth District, which includes the Big Sur coast.

I am speaking on behalf of all of Monterey County on behalf of the entire board of supervisors. I have a letter with me which was mailed to you, indicating unanimous support from our board for my objection to the proposed legislation, urging you to reject it as soon as possible.

I am speaking not only in opposition to the bill but frankly in defense of our land use plan. I have a telegram, which was delivered to me yesterday, from all the mayors of all the cities in Monterey County, as well, which I will hand in and could not submit earlier.

But let me begin by saying we are not ungrateful for this attention. In fact, we appreciate the shared concern of Senator Wilson in introducing the bill. I know he has good intentions and the concern of your committee in holding these hearings.

We all aim to preserve and protect the Big Sur coast for generations to come. However, the proposed bill would do just the opposite. The timing on the bill is completely off.

As you know, we have a brandnew land use plan. It has been 10 years in the making. It was only approved on April 9 of this year by the coastal commission. It has undergone an endless series of battles, that is well known. It is the result of a cooperative effort on the part not only of local organizations and residents and jurisdictions, but of really nationwide interest from a great number of concerned organizations and individuals.

It has been a massive effort. After 10 years, we have finally completed it. It was certified, and we have it in our hands. We are very eager; in fact, we are impatient to implement it at last and to have a normal procedure in Big Sur in terms of land use planning.

This plan is very restrictive. It is extremely protective, and it represents a careful balance, a balance between environmental protection and private property rights. We are not willing to sacrifice one for the other—a balance between the concerns and needs and interests of the residents—and it is a viable, livable community; it is not a tourist center, a balance between the residents' concerns and their visitors' needs, which we accept under the California Coastal Act.

We have more than 3 million visitors each year now to Big Sur. We expect it to increase. We expect to be absolutely overwhelmed if this bill is adopted. The plan also represents at present a balance between public and private lands. I think that is important to note. It is extremely restrictive. I will not bore you with the details except to point out that this is our plan in three volumes with two water management studies.

Each and every one of these paragraphs has been gone over with a fine-toothed comb. We have argued over the commas, and I think it was well worth doing. It permits only small-scale development. It carefully cites that development and limits it, specifically names the ultimate residential buildup, increasing it at maximum by 50 percent over the current 800 residences.

We are talking about 70 miles of land. So it is very low density. We will permit no more than an additional 300 hotel rooms and inn units. These are made to be rustic and no one facility may have more than 30 rooms.

So again, everything must be small scale, must be in keeping with the current development, which is severely limited in place essentially in five rural community centers. We will not permit strip development of Highway 1. And that highway, by very innovative law back in 1965, was designated as the first scenic two-lane road in California. Our plan insists that this be continued.

Senator **Wallop**. Ms. Kauffman, I realize how short 3 minutes is. It is now 4½ and I must ask you to conclude.

Ms. **Kauffman**. I am sorry.

Senator **Wallop**. We will have the entirety of your statement in the record. I appreciate how short 3 minutes is, but I have, at the very least, witnesses to take us to a little after 1 o'clock.

Ms. **Kauffman**. I appreciate that. I just had not heard anyone else mention it. I want to be very clear: that this plan is very restrictive. It is very protective; it is environmentally sound, since the major argument being made for it is that we need more protection. But I will not go into additional details.

[The prepared statement of Ms. Kauffman follows. Retained in subcommittee files: Big Sur Coast Land Use Plan, Little Sur River Protected Waterway Management Plan, Big Sur River Protected Waterway Management Plan, Report to Monterey County Board of Supervisors (7/8/86), Report to Monterey County Board of Supervisors (7/22/86).]

MONTEREY COUNTY

THE BOARD OF SUPERVISORS

MONTEREY COURTHOUSE - 1200 AGUAJITO ROAD, MONTEREY, CALIFORNIA 93940

KARIN STRASSER KAUFFMAN
SUPERVISOR - DISTRICT 5

SANDRA M. SMITH
AIDE TO THE SUPERVISOR

(408) [illegible]

July 25, 1986

The Honorable Malcolm Wallop, Chair
Senate Subcommittee on Public Lands
308 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Senator Wallop and Subcommittee Members:

On July 31, 1986, I will be appearing before you in person to testify on behalf of Monterey County in opposition to Senate Bill 2159. My testimony will consist of:

1. Review of the proposed bill's compliance with the Big Sur Local Coastal Plan;
2. Monterey County Planning staff analysis of the proposed legislation;
3. Summary of public testimony received at Townhall meetings conducted on SB 2159 in my jurisdiction.

Enclosed are brief supporting documents to be used as background information for your committee. I look forward to this opportunity to delineate Monterey County's objections to the proposed legislation.

Very truly yours,

Karin Strasser Kauffman
Karin Strasser Kauffman

Encl

KSK/hr

MONTEREY COUNTY
THE BOARD OF SUPERVISORS

MONTEREY COURTHOUSE - 1200 AGUAJITO ROAD, MONTEREY, CALIFORNIA 93940

KARIN STRASSER KAUFFMAN
SUPERVISOR - DISTRICT 5

SANDRA M. SMITH
AIDE TO THE SUPERVISOR

(408) 646-6515

SUMMARY & DISCUSSION OF TOWNHALL MEETING COMMENTS

May 25, 1986

The Honorable Pete Wilson
Senate Office Building
Washington, D. C. 20515

Dear Senator Wilson:

As promised in earlier discussions with your staff, I am sending you a brief summary of comments from the local population upon your proposed Big Sur bill. These comments were received at a Townhall meeting in Big Sur held for the express purpose of obtaining community response which could be forwarded to you.

Throughout the public testimony at the Townhall session, concern was repeatedly expressed that these comments might indeed be "too late" to warrant your personal attention, in that your legislation had already been introduced and without prior community consultation. I trust that this is not the fact, and that you will consider most carefully the public response voiced in this synopsis.

Beyond the attached summary, I have been asked to convey to you the community's support for our recently certified Big Sur Coast Land Use Plan. There is consensus that the plan should be given a chance to work and that practical application of the plan should precede any federal attempt to reinterpret or supplant it. In credit to the people of Big Sur and to the various jurisdictions and organizations engaged in the ten-year detailed planning effort to finalize this document, the Big Sur Coast remains unspoiled. To date no travesties of overdevelopment or environmental degradation exist to warrant premature response for "federal proctection." Moreover, we already have a well-established process of inter-governmental cooperation -- including federal representation -- which allows for regular ongoing communication between the agencies having jurisdiction within the Big Sur area.

In addition, I would like to repeat that our communities, our County staff, and certainly I myself remain eager to discuss with you our objections to the language and details of your bill. A letter sent to you on March 31, 1986, signed by all elected representatives of the Big Sur Coast -- from local through state officials and including the U.S. House of Representatives -- is as yet unanswered. This letter set out our objections and invited you to work with us to address them.

Everyone here is appreciative of any public recognition that the Big Sur Land Use Plan should remain the guiding document for protection of our fragile coastline for generations to come. Your own supportive statements of this goal are certainly most welcome. We would like to discuss with you personally alternative actions to the comprehensive federal legislation you have introduced --alternatives which more directly address both your goals for coastal protection and ours.

I look forward to hearing from you at any time.

Respectfully,

Karin Strasser Kauffman

Karin Strasser Kauffman

Encl

MONTEREY COUNTY
PLANNING DEPARTMENT

1850

Memorandum

DATE: May 30, 1986

TO: Supervisor Strasser Kaufman

FROM: Dave Young

RE: WILSON BILL - TOWN HALL MEETING COMMENTS

The Big Sur Town Hall meeting you called on April 24th to provide a convenient forum for local residents to express their thoughts on Senator Wilson's proposal was both very well attended (60-70 people) and appeared to represent a cross section of local opinion. Although it was obvious that the response was almost exclusively negative, I would not characterize the sum of the comments as simply a "reaction" to the bill. Those attending and commenting are intelligent and genuinely concerned with the future of their area. They have quite obviously given the proposal exhaustive and thoughtful review. Furthermore, most have been actively involved in the Big Sur Coast planning process - some from its beginnings over 10 years ago. They know the land, the plan, and are quite capable of assessing the significance of Senator Wilson's legislation, as introduced.

Philosophically, the Bill is being seen as another unnecessary and unacceptable "federalization" effort; one which ignores the adequacy of the Big Sur Coast Land Use Plan and would generate a significant increase in visitorship with resulting substantial impacts not only in the plan area, but on the Monterey Peninsula and San Luis Obispo County as well. Such impacts are admittedly speculative, but there is no EIS requirement on legislation to address impacts, as would be the case for local discretionary decisions of this type. This absence of environmental impact analysis is seen as a second major flaw.

The group's recommendation was that the Bill was unacceptable in its present form, generally unnecessary, and should be resisted by the County through an organized program using all actions appropriate in the political arena. The final major recommendation was for the County to explore all possible sources of funding to facilitate plan implementation thereby avoiding the need for direct and perhaps conflicting federal programs.

More specific, but no less significant, concerns expressed at the meeting fall under six general categories. These are that the Bill:

- Sees the Land Use Plan as insufficient to protect the Coast;
- Sets different rules for public and private lands;
- Fails to recognize that the Big Sur Coast is different from other "federalized" areas;
- Should bring Federal lands under the provisions of the Land Use Plan;
- Effectively brings all of the Big Sur Coast under Federal control; and
- Fails to recognize that local planning and local people can and will protect the land.

These concerns have much merit and to a degree reflect those expressed by the County and other agencies, individuals and groups. Had more time been available for the meeting, I am sure the Bill would have been addressed on a line-by-line basis.

It would appear that the comments can be reduced to a few simple concepts:

The proposed legislation is neither needed nor desired;

Perfectly acceptable alternatives exist for implementing the plan;

Such alternatives must be vigorously pursued by the County; and

If the Federal Government wants to get in step with the local (and State) planning, a radically different legislative approach would be required.

MONTEREY COUNTY
PLANNING DEPARTMENT

Memorandum

MONTEREY COUNTY PLANNING STAFF -- INITIAL ANALYSIS

TO: Board of Supervisors April 15, 1986

FROM: Robert Slimmon, Jr. Robert Slimmon

SUBJECT: WILSON SENATE BILL (SB 2159) - CONCERNS

As with most legislation at this stage of development, this bill is rather disorganized in structure and content, raises more questions than it answers, and is difficult if not impossible to adequately assess.

Primary concerns are:

1. Boundaries are not defined (except for quite general language on page 3) nor are maps available. Also, area of Federal "intent" is not defined. Therefore, implications of the bill cannot be determined.

2. Characterization of the Big Sur Coast Land Use Plan (page 2) is limited to health, safety and welfare, and states that the bill (through Federal action) would protect the local character and provide needed resource protection (essential elements of the Land Use Plan). Elsewhere in the bill (page 9) the LUP is deemed "consistent with the purposes of [the] act".

3. The bill calls for a "comprehensive management plan" (page 6) which, based on listed criteria, would overlap not only the LUP but also the Federal Land Management Plan - Big Sur Coastal Planning Unit established in 1978 and now being revised. Further, the bill never mentions the Federal Coastal Zone Management Act. In several instances the bill appears to give the Secretary of Agriculture the power to determine that the LUP is not, in fact, adequate - specifically, if project "variances" or "exceptions" to the LUP are granted (not permitted by law) or if the LUP is amended "to be inconsistent with the [Act]" (page 10). The bill ignores the statutory requirement for state and local coastal planning and the mandatory conformance of projects with the LUP policies.

4. Broad powers are given to the Secretary of Agriculture to make minor revisions to the area covered by the bill, without any local input. Further, the Secretary is to prepare the "management plan" with only a multi-agency Scenic Area Advisory Board to be established to advise him

on its preparation and implementation. The U.S. Forest Service representative is to be Chairman (page 7). This is despite the statement of purpose to maximize coordination with State and local government and landowners (page 2).

5. Provision for a Big Sur Coast Trust to accept property, etc. in a manner identical to that of existing local land trusts. The difference is the Secretary's direct control through "exclusive authority over the expenditure of funds" and the requirement that title to all acquired assets be conveyed to him.

DHY/cm

⑧

◆
IPM34CA
4-039304S209 07/28/86
ICS IPMFNCZ CSP
ZCZC 4083949556 TDRN MONTEREY CA 27 07-28 0442P EST
PMS SUPERVISOR KARIN STRASSER KAUFFMAN, DLR
1200 AGUAJITO RD
MONTEREY CA 93940

BT
THIS IS TO INFORM YOU THAT AT THEIR JULY MONTHLY MEETING THE MAYORS OF MONTEREY COUNTY CITIES VOTED UNANIMOUSLY TO OPPOSE S2159. A SIGNED RESOLUTION WILL FOLLOW.
ROBERT E FRANCO CHAIRMAN

NNNN
1641 EST
◆
IPM34CA

MONTEREY COUNTY

1850

THE BOARD OF SUPERVISORS

SAM P. KARAS, CHAIR
[illegible]
[illegible]

MARC J. DEL PIERO
[illegible]
[illegible]

BARBARA SHIPNUCK
[illegible]
[illegible]

DUSAN M. PETROVIC
[illegible]
[illegible]

KARIN STRASSER KAUFFMAN, VICE-CHAIR
[illegible]
[illegible]

July 22, 1986

The Honorable Malcolm Wallop, Chair
Senate Subcommittee on Public Lands
308 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Senator Wallop and Committee Members:

On July 31, 1986, Supervisor Karin Strasser Kauffman will be speaking before your committee in opposition to Senate Bill 2159. This letter conveys the unanimous support of the Monterey County Board of Supervisors for that testimony.

Our Planning Staff analysis of the proposed legislation indicates that its provisions seriously contradict the fully certified Local Coastal Plan for the Big Sur area. That plan, adopted only in April of this year, culminates a more than ten-year planning effort on the part of Monterey County, local residents, and a great number of jurisdictions and interests throughout the state of California. Monterey County wants to assure that our Big Sur Local Coastal Plan is properly implemented and indeed given a chance to work -- unencumbered and undiluted by any further contradictions at any level of government.

Local opposition to SB 2159 has been intense. The affected community, other jurisdictions and interested organizations, and our own Board have requested field hearings from you on the proposed legislation. We respectfully ask once again that such field hearings be held in the vicinity of Big Sur in order to permit full democratic participation and provide an opportunity for committee members or their representative to inform themselves fully prior to taking action.

Monterey County appreciates the attention and concern for the Big Sur Coast evidenced by your committee's hearings, but respectfully insists that you reject SB 2159.

Very truly yours,

Sam P. Karas
Sam P. Karas, Chair
Monterey County Board of Supervisors

SPK/hr

Senator **Wallop**. Thank you very much.

Ms. Marek.

Ms. **Kauffman**. Excuse me. Could I just make a few more points?

Senator **Wallop**. I am really sorry. If I do that for you, I have to do it for everybody else, and I will be here till 3 o'clock.

Ms. **Kauffman**. It is Monterey County's Land Use Plan, which we are proposing to have scrapped and overruled by this legislation.

Senator **Wallop**. The committee will hear and will read those words in your full statement. I apologize, but I simply do not have the time to go over every detail at this point.

And so in the interest of those who follow I cannot give you 5 minutes. I would have to give everybody 5 minutes. That would put us at 4 o'clock, and I would miss the tax conference and a lot of other things. I simply cannot. I am sorry.

Ms. **Kauffman**. Perhaps I can answer some questions.

Senator **Wallop**. Let's turn to Ms. Marek.

STATEMENT OF DONNA GRACE MAREK, CARMEL-BY-THE-SEA CITY COUNCIL, PEBBLE BEACH, CA

Ms. **Marek**. Thank you. I am Donna Grace Marek, a resident of Pebble Beach, CA.

Because of the coastal cities' concerns over the proposed bill S. 2159, the Carmel-by-the-Sea City Council has requested that I read the following letter into the record at this July 31 subcommittee hearing and present this letter to Senator Wallop.

> Dear Senator Wallop: The City Council of the City of Carmel-by-the-Sea reviewed Senator Pete Wilson's Big Sur National Forest Scenic Area Act, S. 2159, at its meeting of May 6, 1986. At that time we adopted Resolution No. 86-39 opposing S. 2159 in its present form.
>
> It was, and still is, our belief that the Land Use Plan for the Big Sur portion of the Local Coastal Program provides sufficient protection for this uniquely scenic area. We feel that the preservation of the Big Sur area rests with the people of the community. They are a part of its heritage and are most concerned about saving Big Sur.
>
> Our position is based on the concern that by providing a scenic designation to that area, there will be a three to fourfold increase in visitorship within a five-year period. This will result in increased air, water, noise, and visual pollution, as well as an increased demand for water and sewage utilities on our City as well as other coastal cities within the geographical areas defined in the Act.
>
> We request that this letter be entered into the official records of the public hearing.

And it is signed by Helen Arnold, Elinor Laiolo, and Francis P. Fischer, all council members.

Senator **Wallop**. Thank you very much.

Senator Wilson.

Senator **Wilson**. Thank you very much, Mr. Chairman.

Supervisor Kauffman, I am going to ask a series of questions as quickly as I can.

Is Monterey County a charter or a general law county?

Ms. **Kauffman**. General law.

Senator **Wilson**. General law.

That means that you really do not have the authority to independently enact an ordinance that would limit campaign contributions, either by source or amount? So that the answer to the next question is that you don't have one.

What was the largest amount spent by a candidate for the board in recent times?

Ms. KAUFFMAN. I would assume it was my own campaign, $45,000. There was probably one other supervisorial campaign approximately equal. We had two elections: primary and general.

Senator WILSON. Let us suppose, just for the sake of argument, that in your campaign where you spent $45,000, someone opposed to your philosophy with a deep pocket had come in and artfully and carefully and also late in the election had spent $110,000 on behalf of your opponent, what do you guess the outcome might have been?

Ms. KAUFFMAN. He would have been even more soundly defeated.

Senator WILSON. That is a plucky answer. [Laughter and applause.]

Senator WALLOP. I am sorry. However entertaining, the Chair cannot receive expressions of approval or disapproval.

Senator WILSON. That is a plucky answer, but unlikely.

Let me ask you this. Is Monterey County experiencing difficult times in terms of budget growth and resources to meet it?

Ms. KAUFFMAN. Yes, of course we are. That is true for all California counties. However I might point out—and I know you are concerned about funding for this plan, as am I—that it will take a cooperative effort. We have made a start. We were granted $2 million from the coastal conservancy for our transfer development credit program to protect the critical viewshed. The sum of $1 million is encumbered discount a year, $1 million the next.

There is a private preservation commission, which was established, and our county set up a trust fund for this last week to receive moneys based on private donations. I have suggested that you serve on the directorate of that organization and help us to raise some money since you are clearly so interested in working with us.

Senator WILSON. Thank you. I am flattered by that invitation.

Does Monterey County have a room tax imposed on the occupants of motel and hotel rooms?

Ms. KAUFFMAN. Yes, we do; 10 percent.

Senator WILSON. Is this an important source of revenue; an alternative to higher property taxes?

Ms. KAUFFMAN. No, it is not sufficient. Our major industry is agriculture. It does of course help, and it is one of the few taxes we have some leeway with as a county.

Senator WILSON. This is a tax on visitors. When was the tax last raised?

Ms. KAUFFMAN. Last year.

Senator WILSON. Last year.

Is some portion of the room tax moneys expended by the county to pay for advertising and promotion of the visitor industry in the county?

Ms. KAUFFMAN. Only in the outlying rural areas, which would be mainly South County, Carmel Valley, some of the distressed areas—agricultural-related areas. Yes, we do try to promote those areas.

Senator **WILSON**. Like Big Sur?

Ms. **KAUFFMAN**. No. We did not put anything into tourism development. We took some of the TOT money to print a nature brochure. People are always looking for rest rooms. Some people do not recognize it is 70 miles long and think they will be through in half an hour and do get lost. So we have a cooperative effort with the Forest Service and State parks and financed a nature brochure and some of the TOT was used for that.

One example of really excellent cooperation that we have right now at all levels of government active in the Big Sur area: We do work together on a weekly basis, and I appreciate the Forest Service's and State park's cooperation.

Senator **WILSON**. Has not the county also expended funds to promote the Big Sur marathon?

Ms. **KAUFFMAN**. No, sir. No, sir.

Senator **WILSON**. Well, is it your opinion that the kind of advertising campaigns by the Double Tree Inn to seek conventions or by the Pebble Beach Co. launching a national campaign advertising to bring visitors to the aquarium, do you think that these place pressures upon the Big Sur area?

Ms. **KAUFFMAN**. Yes, they will. We will be under pressure from tourists.

Senator **WILSON**. Is not tourism, apart from agriculture and the military, the major employer in the county?

Ms. **KAUFFMAN**. Yes, this is one of our three, economic basis.

Senator **WILSON**. Is it not the one that has exhibited the most dramatic growth in the past decade?

Ms. **KAUFFMAN**. I could not say that; I have not looked and compared——

Senator **WILSON**. I can. It is.

Thank you.

Senator **WALLOP**. Thank you. Thank you, both, very much. We appreciate it.

The next panel is Mr. John Harlan, vice chairman, Friends of the Big Sur Coast; Mr. Pat Chamberlain of the executive committee of the Friends of the Big Sur Coast, and also from Friends of the Big Sur——

Ms. Sara Roberts, Mr. Wiley Ramey, and Mr. James Josoff.

Mr. Chamberlain, why do you not proceed.

STATEMENT OF PAT CHAMBERLAIN, MEMBER, EXECUTIVE COMMITTEE, FRIENDS OF THE BIG SUR COAST, BIG SUR, CA

Mr. **CHAMBERLAIN**. Mr. Chairman, my name is Pat Chamberlain. My wife is Barbara Von Protz Trotter Pfeiffer Chamberlain. She is a fourth generation descendant of the first white family that came to Big Sur.

I am a 16-year resident of the coast, coming to Big Sur as a result of my employment with the California Highway Patrol, and at my own request. I am a lifelong resident of Monterey County. I am also the fire chief of the Big Sur Volunteer Fire Brigade, and a resident and not a property owner. I am here today to speak in opposition to Senate bill 2159.

The bill speaks of Big Sur as a unique national treasure. Without a doubt, this is true. National, however, is minimizing the respect due it. We have been experiencing an influx of tourists from every country in the world. For the most part, these people come through Big Sur en route to either Los Angeles or San Francisco, as Big Sur is not their destination but rather a place to see. They have heard about it from news reports, friends and relatives, or perhaps an article in a periodical. Many have no idea what Big Sur is. Many times I am asked, where is Big Sur? What is Big Sur? Did we miss Big Sur?

After I explain that Big Sur is a geographical location, that it is the Redwoods, the ocean, the flowers, the views and yes, the people, the next question is: Where is the turnoff to Highway 101 or Interstate 5?

When they are told that there are not any, they say: Why did not somebody tell us about this highway? For you see Highway 1 is a narrow two-lane, rural roadway built in the 1930's to accommodate the locals and as a link between San Simeon and Monterey. It winds above the Pacific Ocean along the west side of the Lucia Mountain Range.

They come to Big Sur, in literally all conceivable types of transportation. They do stop and use our facilities, our restaurants; they also use our turnouts along the highway enjoying spectacular views, trails, and beaches. Unfortunately, they leave not only their footprints but their trash.

Big Sur people are tolerant of this. We pick up after them and we assist them when we can. The environment however is being pushed to the point where the tolerance is running out. In the past the chapparral, the trees, the Indian Paint Brush, the Yucca, and our own State flower, the Poppy had time to rejuvenate when our visitors went home. But that rejuvenation period is getting slower and slower.

In short, if any other federalization bills are passed, or any federalization bills are passed, and the people flock to Big Sur as they have in the past, I am afraid that the people who did this to Big Sur will be asking themselves Mr. Ansel Adams' comment, "How do we unbring them?"

Thank you.

[The prepared statement of Mr. Chamberlain follows:]

Testimony by Pat Chamberlain - Senate Subcommitteee on Public Lands, Reserved Water & Resource Conservation - July 31, 1986

My name is Pat Chamberlain. My wife is Barbara Von Protz Trotter Pfeiffer Pfeiffer Chamberlain, a fourth generation descendant of the first white family to settle in Big Sur.

I am a sixteen year resident of the coast, coming to Big Sur as a result of my employment, California Highway Patrolman, at my own request. I am a lifelong resident of Monterey County, having been born in Pacific Grove on the Monterey Peninsula. I am also the Fire Chief of the Big Sur Volunteer Fire Brigade. As a resident and not a property owner, I am here today to speak in opposition to S 2159.

The bill speaks of Big Sur as a "Unique National Treasure". Without a doubt this is true. "National" however is minimizing the respect due it. As a result of unwanted publicity the coast received in 1980-81 we have been and are experiencing an influx of tourists from every country in the world. These people come through Big Sur in route to either Los Angeles or San Francisco as Big Sur is not their destination, but rather a place to see. They have heard about it from the news reports, friends and relatives or perhaps read an article about it in a periodical. Many have no idea of what Big Sur is - as I am frequently asked "Where is Big Sur?", "What is Big Sur?", "Did we miss Big Sur?". And many times when these are asked, they are right in the middle of it. After I explain Big Sur is a geographical location, that it is the redwoods, the ocean, the flowers, the views and yes the people, the next question is, " Where is the turnoff to Highway 101 or Interstate 5 ?" When they are told there is none, they say, "Why didn't someone tell us about this highway?" For you see, Highway 1 is a narrow two lane, rural roadway that was built in the 1930's to accomodate locals and as a link betweeen San Simeon and the Monterey Peninsula. It winds above the Pacific Ocean along the west side of the Lucia Mountain Range, at times being as close as thirty feet above the water and then within a few miles, 1200 feet above it. The Highway is unforgiving as some who went home after a hospital stay and some who didn't go home at all can attest to.

They come to Big Sur, in literally, every conceivable type of transportation: foot, bicycle, unicycle, motorcycle, cars, campers, vehicles pulling trailers, motorhomes, buses, and by horse and in one instance by wheelchair. During our peak periods the highway traffic is at its maximum seventy to eighty percent of the day light hours. They do stop and use the facilities available; restaurants, service stations, gift shops. They also use the turnouts along the highway, enjoying the spectacular views and the trails to the beaches, both on public and private lands - and unfortunately there are those who leave not only their footprints but trash and trampled flora.

But Big Sur people, being as they are, get along very well with our three million visitors and assistance is given to them, either in the form of information, maybe water for an overheated radiator, use of a private phone to summon a two truck; I know -being a volunteer on the Red Cross ambulance and Fire Brigade - and yes picking up after them is something we accept.

The environment, however, is being pushed to point where its tolerance is running out. In the past, the flora, the trees, chapparral, the small fragile Indian Paint Brush, the unforgiving Yucca, and our own state flower, The Golden Poppy, all had time to rejuvenate when our visitors went home. But, the rejuvenation periods have been getting shorter and shorter and consequently the environment is suffering.

In essence the three million visitors per year that we are experiencing now is about as much as Big Sur can take. For Big Sur to receive any kind of Federal designation now or ever, would mean more people and thus an environment that would slowly be choked to death - putting us in comparison with Yosemite, and for those who did it to Big Sur asking themselves, to quote Mr. Ansel Adams, "How do we unbring them".

Senator WALLOP. Thank you, Mr. Chamberlain.
Mr. Harlan.

STATEMENT OF JOHN HARLAN, VICE CHAIRMAN, FRIENDS OF THE BIG SUR COAST, BIG SUR, CA

Mr. HARLAN. My name is John Lathrop Harlan. I am the eldest son of the eldest son of a pioneering family to the south coast of Big Sur. My great-grandparents, Gabriel and Elizabeth Dani, settled there 110 years ago in 1876. My grandfather, Wilbur Judson Harlan, homesteaded a few years later and filed his claim on 167 acres in the San Francisco Land Office in 1885.

Today, my wife and I own that same land, having purchased it in two separate transactions from my paternal aunt and uncles in 1970 and 1973. I represent the fourth generation on this land. Four of our five grandchildren have been born on the land being delivered by midwives. I was also born on the Big Sur south coast and was delivered by my father. Not only were all of my father's brothers and sisters born on the land, but some of them are also buried there in the family cemetery.

The Harlan family have always practiced gentle utilization of the land believing that if they took good care of the land and its resources, that in turn the land would take beneficial care of them. They drew heavily on the native California Indians and the settlers of Spanish descent, to learn how to improve their grazing land and to prevent erosion.

This concern with ecology is an ongoing priority, as my Uncle Marion David Harlan, was a charter member of the Coast Property Owners Association, an organization dedicated to the preservation of Big Sur's scenic lands and the health and culture of its residents. He also served as chairman of the South Coast Advisory Committee to the Monterey County Planning Commission until his demise in 1983.

At his encouragement upon returning to the Big Sur country in 1970, I also became active in the Coast Property Owners Association and have served two terms as president of that organization as well as being the current chairman of the South Coast Advisory Committee to the Monterey County Planning Commission.

The passage of the California Coastal Act of 1976 represents the most stringent coastal law of any State in the United States. And the LUP was submitted to the California Coastal Commission and certified early in 1986, after more than 10 years in the formulation process.

I feel that this august body should be aware of all the planning effort in terms of time and money that have gone into the process and to permit the local planning effort with local accountability to be given the test of time. We who live in Big Sur recognize this land use plan and the attendant zoning ordinances form the toughest local coastal plan of any of the country.

In conclusion, I would like to point out that section 7 of S. 2159 on the Big Sur National Scenic Act would not only destroy the tourist experience and the culture of Big Sur, but would prevent my grandchildren who live on the land and love it as much as I do, the choice of where they will live, because they would be removed within a maximum term of 25 years, subject to the whim of one appointed man, who can trigger condemnation mechanisms.

Thank you for listening.

[The prepared statement of Mr. Harlan follows:]

Lucia
Lodge

one hundred years
of hospitality

TESTIMONY OF JOHN LATHROP HARLAN
AT THE JULY 31, 1986 HEARING OF THE
SENATE SUB-COMMITTEE ON PUBLIC LANDS,
RESERVED WATER AND RESOURCE CONSERVATION

My name is John Lathrop Harlan. I am the eldest son of the eldest son of a pioneering family to the South Coast of Big Sur. My great-grandparents, Gabriel and Elizabeth Dani, settled there one hundred and ten (110) years ago in 1876. My grandfather Wilbur Judson Harlan homesteaded a fewyears later and filed his claim on 167 acres in the San Francisco Land Office in 1885. Today my wife and I own that same land having purchased it in two separate transactions from my paternal aunt and uncles in 1970 and 1973. I represent the fourth generation on this land. four of our five grandchildren have been born on the land being delivered by mid-wives. I also was born on the Big Sur South Coast and was delivered by my father. Not only were all of my fathers brothers and sisters born on the land, but some of them are also buried there in the family cemetary.

The Harlan family have always practiced gentle utilization of the land believing that if they took good care of the land and its resources, that in turn the land would take beneficial care of them. They drew heavily on the native California indians and the settlers of Spanish descent, to learn how to improve their grazing land and prevent erosion. This concern with the ecology is an ongoing priority as my uncle Marion David Harlan, was a charter member of the Coast Property Owners Association. An organization dedicated to the preservation of Big Sur's scenic lands and the health and culture of its residents. He also served as chairman of the South Coast Advisory Committee to the Monterey County Planning Commission until his demise in 1983. At his encouragement, upon returning to the Big Sur country in 1970, I also became active in the Coast Property Owners Association and have served two terms as president of that organization as well as being the current chairman of the South Coast Advisory Committee to the Monterey County Planning Commission.

In November 1972, the electorate of the State of California, passed proposition 20. This proposition was patterned to bring California into alligment with the Federal Coastal Zone Management Act of 1972. Proposition 20 had a sunset provision that stipulated that the California State Legislature would have to enact permanent legislation within a term of five years to replace proposition 20. This was accordingly accomplished by the passage of the California Coastal Act of 1976. This legislation represents the most stringent coastal law of any state in the United States.

Because of the unique character of Big Sur, it was selected by the California Coastal Commission as a pilot planning application, therefore it became one of the first areas along the 1100 mile coastline to begin the planning process to bring it into compliance with the new legislation. A work program was executed outlining the planning considerations, and upon approval, a Citizen Advisory Committeewas appointed by the Monterey County Board of Supervisors, of which I was elected vice-chairman. This committee met on a weekly basis with the Monterey County senior planner designated to draft the Land Use Plan (LUP). The Committee was broken down into subcommittees appropriate to each segment of the approved work program. The output that was accomplished represented the democratic process at its finest. Each committee person was selected on the basis of his or her insights and experiences,

Lucia
Lodge

one hundred years
of hospitality

and the output of the group did not represent any one individuals entire beliefs, but was a matter of compromise within the framework of the California Coastal Act and the attendant work program. One of the initial premises was that because of the pristine beauty of the area, the viewshed was to receive special consideration and treatment. Every facet of the process was subject;(1) to townhall meetings at the community level;(2)to review and approval by the Monterey County Planning Commission, before being approved by the Monterey County Board of Supervisors after additional fine tuning. Finally the LUP was submitted to the California Coastal Commission and was certified early in 1986 after more than 10 years in the formulation process.

I feel that this august body should be aware of all of this planning effort in terms of time and money that have gone into this process and to permit this local planning effort with local accountability to be given the test of time. We who live in Big Sur recognize that this Land Use Plan and the attendant Zoning Ordinances form the toughest Local Coastal Plan (LCP) of any area of the country.

In conclusion I would like to point out that section seven of Senate Bill 2159 on the " Big Sur National Forest Scenic Act " would not only destroy the tourist experience and the culture of Big Sur, but would prevent my grandchildren who live on the land and love it as much as I do, the choice of where they will live, because they would be removed within a maximum term of twenty-five years, subject to the whim of one appointed man, who can trigger condemnation mechanisms.

Thank you for listening.

John Lathrop Harlan

John Lathrop Harlan

The Harlans Big Sur, California 93920 (408) 667-2391

Senator Wallop. Thank you, Mr. Harlan.

Mr. Harlan. Thank you.

Senator Wallop. Thank you very much for assisting us.

Ms. Roberts.

STATEMENT OF SARA ROBERTS, FRIENDS OF THE BIG SUR COAST, BIG SUR, CA

Ms. Roberts. I am Sara Roberts.

Let's be realistic, gentlemen. The Federal Government does not have the money to buy more land, much less administer another holding on the scale of Big Sur. The Wilson bill makes provision for $500,000 of seed money, but we know that is only the beginning. Spend your precious dollars on areas you have already acquired and have already committed to protecting: Yosemite, Yellowstone, Grand Canyon, Mono Lake.

If Pete Wilson is sincere in his stated objective to protect Big Sur, then he can work to fund our viewshed policy. Give the Forest Service enough money to manage the Monterey Ranger District of the Los Padres National Forest properly. You cannot afford what you have and the junior Senator is on a shopping spree.

No one understands better than I how much fun it is to spend money. We would be happy to sit down with Senator Wilson and find ways to spend millions in our area. I would now like to read you an Irish limmerick written by a Jewish doctor on my behalf.

> Do they listen to plain words when spoken?
> One might hope in their plan they were jokin'
> When burdened with debt,
> No good end will be met,
> Spending to fix what's not broken.

What I hear when Senator Wilson spoke today is a distrust of democracy, a yearning for an authority higher than local boards and local governments, a yearning for a king. He said Federal Government alone can guarantee a legacy that only God can create.

May I remind the Senator that we live in a democracy. Particularly Big Sur epitomizes the democratic process: We do not need a king.

Thank you.

[The prepared statement of Ms. Roberts follows:]

Testimony on S 2159
To U.S. Senate Subcommittee
On Public Lands, Reserved Water
And Resource Conservation

July 31, 1986

Let's be realistic Gentlemen. The Federal Government doesn't have the money to buy more land, much less administer another holding the scale of Big Sur. The Wilson Bill makes provision for $500,000 of seed money, but we know, don't we, that's only the beginning. Spend your precious dollars on areas you have alredy acquired and have committed to protecting; Yosemite, Yellowstone, Grand Canyon, Mono Lake.

Of 395 miles of trails in the Los Padres National Forest area of Big Sur only 30 miles are open. This years budget for trails maintenance is $3,000. Enough to clear 1 1/2 miles of trail.

If Peter Wilson is sincere in his stated objective to protect Big Sur then he can work to fund our viewshed policy.

Give the Forest Service enough money to manage the Monterey Ranger District of the Los Padres National Forest properly.

You can't afford what you've got and the young senator is on a shopping spree.

No one understands better than I how much fun it is to spend money! We would be happy to sit down with Senator Wilson and find ways to spend millions in our area.

Sara Roberts and

Bret Roberts age 11

Legislative Limmerick

Do they listen to plain words when spoken?

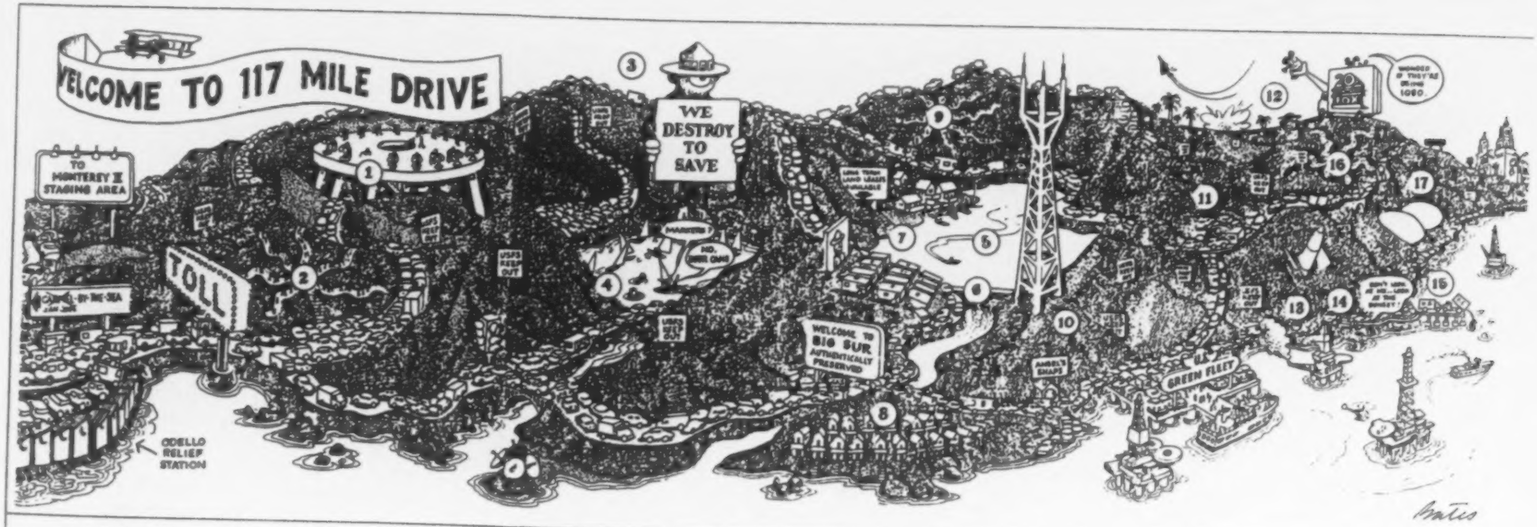
One might hope in their plan they were jokin'

When burdened with debt

No good end will be met

Spending to fix what's not broken.

Howard Press, M.D.
Monterey, California
July 30, 1986


WELCOME TO 117 MILE DRIVE
TO MONTEREY X STAGING AREA
TOLL
ODELLO RELIEF STATION
WE DESTROY TO SAVE
NO, SOME ONE
USFS KEEP OUT
LONG TERM LAND LEASES AVAILABLE
WELCOME TO BIG SUR AUTHENTICALLY PRESERVED
GREEN FLEET
WONDER IF THEY'RE DOING 1080.
Bates

1. Viewing platform
2. Nature walk No. 14621834
3. Smokey the Bear Needle with revolving hot restaurant
4. Lake Little Sur
   Marble Cone Regatta
5. Lake Big Sur
6. Big Sur River Dam
7. Trailer Park, facing movies showing how Government has saved other areas
8. Pfeiffer Beach Cabins-with-a-view
9. Nature Walk No. 17384725
10. Relay Tower for picking up other channels besides educational TV
11. Teenage Turnpike
12. Hunter-Liggett War Games Area resembling the Middle East
13. USFS Geothermal Hot Springs
14. USFS Officers Club (Formerly Esalen)
15. Lopez Pt. Dump for Radio Active Plutonium
16. Nature Walk No. 18473551
17. Pacific Valley Nuclear Power Plant

©1980 Bill Bates

Senator **Wallop**. Thank you, Ms. Roberts.
Mr. Ramey.

STATEMENT OF WILEY RAMEY, JR., FRIENDS OF THE BIG SUR COAST, BIG SUR, CA

Mr. **Ramey**. I am Wiley Ramey. I am the son and nephew of the owners of Ragged Point Inn, a visitor-serving facility, consisting of a sandwich stand, gas station, and motel, located 1 mile south of the Monterey County line.

This is my third trip to Washington. I am here to speak in opposition to Senate bill 2159, which sprang fully grown from the head of Senator Wilson in March of this year. We feel the bill is a mistake. It unnecessarily jeopardizes the resource that it purports to protect, while threatening the free and unconventional lifestyle of the Big Sur people without their reason.

One should ask why the area is undeveloped and why the area is unique. The answer lies with the people themselves who have been both inspired by its beauty, and in turn inspired to protect it. This, combined with the natural limitations of the land along with the lengthy planning process initiated by the 1972 California Coastal Act, have produced the recently approved land use plan for Big Sur, the most stringent in California.

Since the plan has only recently been placed into effect, it cannot be said that the plan will not work and that still more protection is needed. To my knowledge, no lawfully appointed factfinding committee, legislative or otherwise, has conducted any investigation which would warrant the conclusions denominated as findings in the draft of S. 2159, that the existing character of the Big Sur coast and the existing rural communities which have contributed to the maintenance of the natural environment would be protected by this bill rather then destroyed by it.

In light of the unified local opposition to the bill, including the county of Monterey, the county of San Luis Obispo, the city of Carmel, the city of Monterey, the community Cambria, and the city of Morro Bay and in light of the role which these people have played in protecting the area, it is insincere to ignore their wishes.

Their record of preservation is established and their credentials as environmentalists are known. If Senator Wilson has conducted any factfinding, we the people of the area were not included in this process, prior to the tendering of this bill. We are being told by the Senator and his staff what we need and what our area requires, rather than vice versa. This is not my concept of leadership.

We of the area acquired property because we were willing to sacrifice to obtain it. We feel that the pressures on the area would increase exponentially and virtually dictate development for the throngs of visitors likely to result from this legislation. This is the record wherever federalization has occurred.

Senator **Wallop**. Thank you, Mr. Ramey. We will have your entire statement in the record.

Mr. **Ramey**. I would just like to conclude by stating and I will skip over the second page of my remarks and state: Please do all you can to defeat this unwanted abuse of our coast and our people.

[The prepared statement of Mr. Ramey follows:]

S3d2159
Testimony of Wiley Ramey, Jr.
July 30, 1986 Sub-committee Hearing

I am here as a member of the delegation of Friends of the Big Sur Coast and as the son and nephew of the owners of Ragged Point Inn, a visitor serving facilityr consisting of motel , sandwich stand, and gas station located 1 mile south of the Monterey County line. I am here to speak in Opposition to Senate Bill 2159 which sprang fully grown from the head of Sen. Wilson in Mont. The bill is a mistake. It unnecessarily jeopardises the very resource it purports to protect, while threatening the free and unconventional life style of the Big Sur people and their property without reasonl

One just asks why the area is unique and why it is undeveloped. The answer lies with the very people themselves, who have been both inspired by its beauty and in turn inspired to protect it. This combined with the natural limitations of the land along with the lengthy planning process initiated by the 1972 California Coastal Act have produced the recently approved Local Coastal Plan for Big Sur, perhaps the most stringent in the nation. Since the plan has only recently been placed into effect, it cannot be said that the plan will not work and that still more protection is needed. To my knowledge, no lawfully appointed fact finding committee, legislative or otherwise, has conducted any investigation which would warrant the grandiose conclusion contained in the draft of S2159 that the existing character of the Big Sur coast and the existing rural communities which "have contributedd to the maintenance of the natural environment" woul,d be protected by this Bill rather than destroyed by it. Indeed, in light of the unified local opposition to the bill including both the County of Monterey, County of San Luis Obispo, City of Carmel, City of Mongerey, community of Cambria, etc, and in light of the role which these people have played in protecting the area, it is insincere and hypocritical to ignore their wishes. Their record of preservation is established and their credentials as environmentalists are known. If Senator Wilson has conducted any fact finding, the people of the area were not included. We are being told by the Senator and his staff what we need and what our area requires, rather than vice versa. If the Senator practices this type of "leadership" on other issues, then our country will waste millions of dollars on unwanted or obsolete hardware. Does the Semator not listen to the military as to what they need or does he tell the military that he knows better than they?

We of the area acquired property because we were willing to sacrifice to obtain it nor should our coast be lost through federal development which would surely follow upon a federal designation. The pressures on the area would increase exponentially and virtually dictate development for the throngs of visitors. The development would simply be enhanced. It is the record before you wherever federalization occurs

It is said that greater co ordination is needed between the various governmental agencies currently playing a role in the management of the coast. It is stated that federalization is already a fact of l life in Big Sur,

. Yet, what we see in the Bill is not co-ordination, something which can be achieved within the existing framework of the Forest Service, since the Secretary of Agriculture already has jurisdiction over that agency. It should be noted that perhaps the most unappealing structures erected within the area and in the most scenic of places, are the work of the Forest Service. Rather, what we see is unlimited power to dictate given to the Secretary of Agriculture, a political appointment which changes periodically and whose environmental sensitivity will of necessity depend on the perceptions of one man influ enced by the political realities of the moment. Recent frustrations experienced by our own Congressional delegation in dealings with the Secretary of the Interior over our desire to limit oil drilling off the coast demonstrates the real possibility that a Secre tary of Agriculture would compromise our natural and scenic resource rather than act to preserve it. We don/t need this extra layer of political and potentially harmful exposure.

Please do all you can to defeat this unwanted and unnecessary abuse of our coasat and our people.

Senator WALLOP. Thank you, Mr. Ramey.
Mr. Josoff.

STATEMENT OF JAMES JOSOFF, GENERAL CHAIRMAN, FRIENDS OF THE BIG SUR COAST, BIG SUR, CA

Mr. JOSOFF. Thank you, Senator. With your permission, what I would like to do is just submit the testimony that I was going to give orally. And I would like to respond to Senator Wilson's comments and others.

Senator WALLOP. Fine.

Mr. JOSOFF. Senator Wilson did refer and submit some editorials and things of that nature. I would like to do the same. This black packet contains editorials, clippings, and all of that sort of thing. It is the basis of our research on the bill. It is the color black, as black as the future of Big Sur would be, should this bill pass.[1]

Included in here I might point out is a copy of the San Francisco Sunday Examiner Chronicle editorial of last week, in which they changed their position, saying that on first glance, the bill looked good. And giving it more review, they found that it was wrong to have this bill passed.

I am also including and submitting for the record, then, a whole set of resolutions that come from all of the surrounding cities in the area from the two counties most involved, from the California State Grange and other organizations.

And I would like, then, to respond to some of the Senator's comments. Senator, our belief is that no matter what you call it, be it a national recreation area, call it a scenic area, a national park, national seashore, national recreational area, whatever you call it, when you are dealing with 3 million plus visitors a year you are dealing with a park-like atmosphere.

I would like to point out that that is more visitors than Yosemite has, more than Yellowstone has, and yet we have none of the problems that exist in those areas except for traffic. That is a problem. That is a serious problem for all of the areas around us, as well.

You mentioned the Monterey Bay Aquarium, and it did bring pressures on us, Senator. It brought terrible pressures on the surrounding communities, 2 million visitors in its first year. The traffic reached standstill in the surrounding communities. That is a major concern that they have.

The city of Carmel ended up with a moratorium on building this year because they had exceeded their water allotment. We only have so much water in the area. These are great concerns. When you say, Senator, that the figures you have show that when an area has a certain natural visitation that there will not be a significant increase when it receives a Federal designation, that is fine for you to say.

Well, I have some figures here that I would like to submit also for the record. And they show a two-, three-, fourfold increase. When William Penn Mott came out to Big Sur and proposed that we become a national parkway from Carmel down to Morro Bay, one of the things he said is I would like to see this plan similar to the Blue Ridge Mountains National Parkway back East.

---

[1] Retained in subcommittee files.

I would like to point out that in the last 10 years the number of visitors on that parkway has increased 6 million. It has gone up to 21 million a year now. Our point, Senator Wilson, is that we are not going to take a chance. We just do not want to take a chance on getting more than what you might refer to as a significant increase.

I would also like to respond to the point about a development-oriented board of supervisors or Coastal Commission, whatever. You are absolutely right. The boards of supervisors do change. I wish that you had talked with us first, however, before you introduced this bill, because we just went through that situation. We had a development-oriented board of supervisors. They did pass plans for mega development on one of the area's ranches.

As a result of that, the people of Big Sur went to the Coastal Commission and they, 75 to 1, opposed that development, and the Coastal Commission then came down on the side of the people of Big Sur and struck that development plan from the local coastal plan.

I think the history of land use preservation by the people of Big Sur has been long and consistent. I would remind you that it was the people of Big Sur who, without any Federal or State or local mandate at all, in 1959 developed the Nation's first master plan ever designed for scenic values. They did that without any mandate at all. That became a model for the rest of the Nation when it was made into the county's preservation plan for the area in 1961.

Thank you very much.

[The prepared statement of Mr. Josoff follows:]

Testimony on S 2159
To U.S. Senate Subcommittee
On Public Lands, Reserved Water
And Resource Conservation

July 31, 1986

Testimony of Jim Josoff, General Chairman of the Friends of the Big Sur Coast, before the Senate Subcommittee on Public Land, Reserved Water and Resource Conservation.

Senators, although we wish you had held this hearing in either San Luis Obispo or Monterey County, we are nonetheless grateful to you for scheduling the hearing on July 31, 1986. In setting that due date, you brought together the central coast of California in a common cause in a way that nothing else has ever done. The Wilson Bill threatened our envirnment. The due date forced us to act.

It is my somewhat bitter pleasure to tell you that the list and the resolutions I herewith submit as part of the record, represent the united opposition of an unduplicated 577 thousand Californians- either through their elected representatives or through the organizations to which they belong, such as the 40,000 member State Grange or the 32,000 member California Federation of Republican Women. The list of opponets is bipartisan and crosses all the lines of vested interests. It is clear to us that the Wilson Bill could only lead to abuse, overuse and misuse of not only Big Sur, but the entire central coast of California.

No one wants this bill except those who apparently still believe that the federal government should be, can be and is, the sole environmental protection government agency in the nation, despite the present plight of our national forest and parks.

I would also like, both personally and on behalf of the Friends of the Big Sur Coast, to commend our Congressman, Leon Paretta, for the exceptional job he has done in focusing the environmental protection energies of many people who have previously had different approaches to protection. The Big Sur Coastal Partnership has forged has, in less than four months, developed solutions to several areas of concerns, and we are grateful to him. These solutions also completely obviate any federalization of the coast.

Lest there be any misunderstanding, I would like to state for the record that, in criticisms we have made of the Forest Service either in this hearing or in the materials sent to you, we realize that the root cause of most of what we consider mismanagement of resources, is in fact lack of funding.

We have an excellent relationship with the Forest Service. Their willingness, indeed their eagerness, to make the forest land use and management plan compatible with the Big Sur Coastal Plan is heart warming and consistant with their on-going role as a good neighbor. What is nice about our local and regional service people, all the way up to Zane Smith, is that they listen to us. We hope you will too.

I would also like to submit for the record, this black packet of materials- as black as the future of the central coast of California- should the bill pass. The packet contains the results of our research on the issue. I think that when you have read it- and your aides all have copies- you will decide that it's time to lay off Big Sur. Mr. Wilson is Messiah Number Seven. There have been six other attempts to federalize the Big Sur Coast in as many years and we are very tired. The hard won dollars we have had to spend in protecting the area from these attempts would have been better spent on the environment itself. It is time to lay off and devote the federal government's resources to maintaining the area it already has- or we may have to begin to take them back. Thank you.

FRIENDS OF THE BIG SUR COAST
BIG SUR, CALIFORNIA 93920

July 26, 1986

The following is a partial listing of governmental entities, organizations, elected representatives, and individuals who have declared their opposition to S. 2159 to date:

Big Sur Chamber of Commerce

Big Sur Coalition

Big Sur Coastal Partnership

Big Sur Grange #742

Big Sur Defense Fund

Bixby Property Owners Association

California Federation of Republican Women (Northern Division)

California Federation of Republican Women (Statewide)

California State Grange

Camaldolese Monks Immaculate Heart Hermitage

Cambria Chamber of Commerce

Cambria Community Service District

Cambria-San Simeon Republican Assembly

Carmel Highlands Association

Carmel Republican Women

Central Coast Motel Association

City of Carmel-by-the-Sea

City of Monterey

City of Morro Bay

City of Pacific Grove

(MORE)

The following is a partial listing of governmental entities, organizations, elected representatives, and individuals who have declared their opposition to S. 2159 to date - page two:

Coast Property Owners Association of Big Sur

Coastal Residents United, Inc.

County of Monterey

County of San Luis Obispo

Friends of the Big Sur Coast

Highlands-Bixby Advisory Committee to the Monterey County Planning Commission

Mal Paso Creek Property Owners Association

Mayor's Committee, Monterey County, composed of Mayors of the Cities of:

- Carmel
- Del Rey Oaks
- Gonzales
- Greenfield
- King City
- Marina
- Monterey
- Pacific Grove
- Salinas
- Sand City
- Seaside
- Soledad

Monterey County Democratic Central Committee

Monterey County Republican Central Committee

San Luis Obispo County Republican Central Committee

San Simeon Chamber of Commerce

Senator Sam Hayakawa - former U. S. Senator from California

Congressman Leon Panetta

Congressman William E. Dannemeyer

Congressman Robert J. Lagomarsino

Congressman Daniel E. Lungren

Congressman Ed Zschau, Republican Candidate for U. S. Senate

California State Senator Ken Maddy

California Assemblyman Eric Seastrand

Steve Donovan - President of Esalen Institute

Senator Wallop. Thank you, Mr. Josoff.

Senator Wilson.

Senator Wilson. Very briefly, Mr. Chairman, let me just ask Mr. Josoff, because I know that he is sincere in his conviction—and incidentally, I think the witnesses are totally sincere, and I admire the intensity and the passion that they exhibit with respect to the area—I know that he is sincere in the belief and I am interested in seeing the data that you are submitting with respect to the impact of the mere fact of the Federal designation.

But let me point out to you that both public efforts and private efforts are being made in Monterey County to solicit visitors, to bring them there in order to provide jobs. And that is understandable. Tourism has become a major industry there, a major employer.

San Simeon exists to the south; Monterey exists to the north. You are in a natural corridor. You think that this legislation is taking a terrible chance, I think we are taking a terrible chance not to provide some permanency to the plan. I guess we are weighing the comparative threats.

In my judgment, if you look at all of the projections of population growth, if you look at the efforts that are being made responsibly by local government to bring about economic development and specifically to solicit through a new and aggressive advertising campaign the kind of growth and visitor employment, or visitor-related employment, it seems to me that what is the clear future is markedly increased pressures on the area that you will not like, I will not like, but that are inevitable.

And it seems to me that faced with that inevitable fact, we are compelled to do something about it. Now something has been done, something very good. The plan has been adopted. I want simply to assure that it is not undone and democracy is a great thing. I think it was Churchill who said it was a very bad form of government, only much better than all the others, and he was absolutely correct.

Democracy allows us to make mistakes. And we can cure those mistakes at the next election. We can change the people and we can change the policies. In the process though we risk, in the case of land use alone perhaps, we risk doing irreparable damage. And a single change in the composition of the board of the kind that you just described can happen again in reverse. And when it does we risk irreparable injury. And I would suggest to you that the kind of thing that the Double Tree Inn is doing, that the Aquarium is doing, that the Pebble Beach Co. is doing, that the board of supervisors is doing, and that other public and private agencies are doing, is what brings the pressure; that and the population growth of California in the coastal zone. It is not just the designation.

Mr. Harlan. Mr. Chairman, John Harlan. Could I respond to Senator Wilson's initial question?

Senator Wallop. Yes, Mr. Harlan.

Mr. Harlan. You asked about the matter of promoting tourism in Big Sur. I am a lodge owner in Big Sur, and the entire planning area which encompasses the area proposed by your bill—I have not seen any official map, but that is the consensus—has less than 1,500 residents. The building rate is less than 12 structures per year. There simply is no place for people that would be necessary to man those service-type of tourist-serving facilities. It is not there.

Consequently, the residents who live there are divided into the group that was mentioned by Senator Hayakawa: The artists, the people in the creative arts, the Forest Service, the State park employees, and those tourist-serving facilities. There are those four categories. And the number of potential residents are not there. It is not supported either by the amount of resources in the form of water, nor is it supported in terms of buildable building sites.

The land use plan for Monterey County severely restricts the number of residences that can be constructed. When you remove all those parcels, buildable parcels that are included in the viewshed, it further limits potential further development. I think we should rely on our local land use plan in order to solve those problems or your concerns about the future of the area.

Senator WALLOP. Thank you very much.

Mr. JOSOFF. Could I just respond?

Senator WALLOP. I really cannot allow it. I am sorry. I owe it to the people who follow, to be sure they will have time to be able to testify. I appreciate what you said. Any additional comments will be received by the committee.

The next panel is Ms. Ann Notthoff, resource planner for the Natural Resources Defense Council; Mr. Bob Hattoy, the Sierra Club; Ms. Janie Fiegen of the Sierra Club; Ms. Maddy Fishel of the Wilderness Society; Mr. Saunders Hillyer of the Big Sur Foundation.

Senator WILSON. Mr. Chairman, as the new witnesses are being seated, let me in a few sentences make an observation: That is, that I understand the concerns stated by John Harlan. But he is talking about California today with 25 million people. I am concerned with California in 10 or 15 years when the projections are for 40 million.

Senator WALLOP. We are not going to get into population control today, no matter what we do.

Senator WILSON. We are never going to get into it.

Ms. Notthoff.

STATEMENT OF ANN NOTTHOFF, RESOURCE LAND USE PLANNER, NATURAL RESOURCES DEFENSE COUNCIL, SAN FRANCISCO, CA

Ms. NOTTHOFF. Good morning.

My name is Ann Notthoff. I am with the Natural Resources Defense Council, and for the last 6 years we have worked with the county of Monterey and the coastal commission to help develop the land use plan which we strongly endorse and support.

But I would like to point out today that while the land use plan is a strong document, we should not harbor any false illusions of its power. Several of the problems associated with relying on the land use plan alone as a means of preserving the Big Sur, I will discuss now.

First, the Big Sur plan is not inviolate. Our experience with other coastal plans has proven to us that they are subject to erratic change and that with high pressures for development, plans alone are not sufficient to preserve natural resources.

Pressures for amendments are increasing. For example, the coastal commission last year approved 80 amendments to coastal plans throughout the State. And we have seen a pattern of changes to local coastal plans in other jurisdictions. In the county of San Mateo, where the board has changed there, some of the key policies of the plan are under concerted attack. And in that case, the citizens who support the land use plan have collected over 33,000 signatures to place an initiative on their ballot that would lend permanence to the plan and put any amendments up to a vote of the people.

We also have problems because the Big Sur Land Use Plan is subject to legal challenge. There have been at least three public threats to sue to invalidate key provisions of the plan that could leave gaping holes.

Also the coastal commission has been weakened through a series of budget cuts by our State administration and unfortunate appointments by some of our State legislators. So there is much less of the environmental protector than it used to be.

And finally, despite the strong development standards in the land use plan, it still allows for a level of development that if all of it were to occur it would drastically change the wild, undeveloped character of the Big Sur coast. Roughly 33 percent of the areas parcels are now developed and the local plan permits a 250-percent increase, roughly, in residential use and also a 175-percent increase in commercial hotel development.

While the absolute numbers are not high, the percentage increase is staggering. And that is why there is certainly a need for some Federal funds to help with implementing the plan and to help retire some of these development rights and keep the lands in their natural state.

Thank you.

[The prepared statement of Ms. Notthoff follows:]

STATEMENT

OF

ANN NOTTHOFF

on behalf of

The Natural Resources Defense Council

on

S.2159

The Big Sur National Forest Scenic Area Act

before the
Subcommittee on Public Lands
Committee on Energy and Natural Resources

United States Senate

July 31, 1986

My name is Ann Notthoff. I am a resource land use planner with the Natural Resources Defense Council (NRDC) California Coastal Project in San Francisco. NRDC is a national, non-profit environmental law and policy organization with more than 55,000 members and supporters, 11,000 of whom reside in California. We have offices in New York, Washington, D.C. and San Francisco. Twelve years ago, recognizing that the ability of California to manage growth and protect resources on its coast would set the standard for coastal management nationwide, NRDC launched the California Coastal Project. Since 1974 we have actively worked to shape California's program to produce effective policies and plans which emphasize resource conservation in the coastal zone.

The focus of our work is review of five Local Coastal Plans which present significant resource issues and/or have precedential value in terms of setting standards for the completion of the other 115 plans statewide. Cur review of the Big Sur Coast Land Use Plan (LUP) commenced in 1980 with the submittal of extensive comments on the hearing draft then before the Monterey County Planning Commission. Since that time we have attended countless county and state hearings and submitted over a hundred pages of testimony in support of strong policies regulating development in scenic areas, mineral extraction, density, agricultural use and natural resource development.

Monterey County officials distinguished themselves by incorporating many public comments into their LUP and adopting an unusually strong plan which sets strict conservation goals appropriate to the outstanding resources of the Big Sur Coast. NRDC fully endorses the County's plan and congratulates local officials and the California Coastal Commission for their foresight in adopting it.

Senator Wilson's bill S.2159 recognizes the success of Monterey County and the Coastal Commission's planning efforts in Big Sur by extending the local plan's goals and objectives as the standard for management of the 75,000 acres of National Forest land in the proposed Big Sur Scenic Area, section 5(a), and by setting up a federal mechanism designed to lend permanence to the local plan policies, section 7(c). Both provisions make sense given that federal lands comprise 53% of the total planning area and that local land use plan policies are subject to change. In addition, it is important to secure a federal commitment to maintain the wild undeveloped character of Big Sur. We suggest that the bill emphasize its purpose to preserve the wild, undeveloped nature of the area in sections 3(a) and (b).

The intent of section 7 of S.2159 to back up the authority of the land use plan with another level of review helps insure that the plan's policies will be respected. While the land use plan is a laudable document it cannot assure that the Big Sur coast will retain its wild character. Several of the problems associated with relying on the land use plan alone as a means of preserving the Big Sur are set forth below.

1. The Big Sur Coast Land Use Plan Is Not Inviolate

No one disputes that the local plan is an heroic step forward in setting the stage for managed development on the Big Sur Coast. It is not my intent to underplay the value of the goals and policies of the local plan, but it must be recognized that this plan is a step in the process of providing lasting protection for the area's natural resources, not the final solution. While the LUP's goals are laudable there should be no false illusions of its power. The plan suffers from limitations inherent in every land use regulation document in the nation.

Under their police power authority local governments can only regulate proposed land uses to a certain extent. In the case of Big Sur where the terrain and weather conditions are such that a single road cut on a frontal slope can scar the hill, be visible from miles around and take years to heal, the limitations of regulation can seriously degrade the area's wild natural character.

The LUP's vulnerability to change reduces its value as a permanent solution to Big Sur's land use debates. NRDC's experience with other local coastal plans in California has convinced me that strong plan policies alone are not enough to ensure lasting protection of natural resources under pressure for development. Despite their complexity and lengthy preparation period, plans can be relatively fragile documents. The Coastal Commission has seen increasing numbers of requests from local governments to amend their certified plans. The Coastal Commission granted 56 major and 23 minor amendments to local coastal plans during 1985 alone. Not only are amendments to the Big Sur plan a very real possibility as political pressures are brought to bear on the current County government, but as the composition of the local Board of Supervisors can change every two years it is likely that future Boards will interpret plan policies in a manner inconsistent with current understanding.

We have already seen this pattern of deviance from adopted plan policies elsewhere along the California coast. For example, in San Mateo County which has a coastal plan that was widely hailed as environmentally sound when in 1981 it was the first county plan to be certified, local implementation of the plan has produced "creative interpretation" of policies which have resulted in more development than was originally intended by the plan. So despite the current political goodwill and strong intentions of the present leaders of Monterey County to conform strictly with the LCP, significant variables affecting future development remain.

In 1982 the political complexion of the San Mateo Board of Supervisors shifted to a majority in support of more development than authorized by the local coastal plan. Since that time the

County of San Mateo has proposed over 300 amendments to their plan. Many have been minor technical changes, but several have been major proposals. To date, the California Coastal Commission (which is required to approve major amendments), has blocked the more disastrous of these proposed amendments, but the environmental commitment of the Coastal Commission has been seriously eroded in recent months through a series of unwise political Commission appointments. Right now, the most important elements of the San Mateo plan - its rural lands and agricultural policies - are under concerted attack by a small, but well-organized group of landowners and developers. A majority of the Board has indicated a willingness to entertain major changes in the plan. In response to these threats to their hard-won LCP citizens in San Mateo County collected over 33,000 signatures to place an initiative on the ballot to make plan policies more permanent by requiring major amendments to be approved by a vote of the people. The fate of the initiative will be determined in the November elections.

The initiative approach is simply another example of a growing recognition that land use plan policies are subject to erratic change, despite the current system of checks and balances, and that something more permanent is necessary. In San Mateo County they responded with a citizen initiative, in the Big Sur area Senator Wilson has offered section 7 of S.2159 to insert a federal checkpoint in the process. Both approaches are designed to give teeth to the policies of local coastal plans. They are legitimate responses to the problem of malleble land use policies.

2. The Big Sur Land Use Plan Is Subject To Crippling Legal Challenges

During the long and often heated course of debate associated with certification of the local land use plan several threats of legal action to invalidate key sections of the plan were made. Interests unhappy with the plan's adopted density provisions, mineral resource policies, transfer of density credit system and scenic resource protections have all threatened to go to court to reverse these key policy sections.

Certification of resource protective local coastal plans has triggered litigation in the past (e.g. Clayton v. San Mateo County, Moss Landing Enterprises Inc. v. County of Monterey, and Wisenbaker v. California Coastal Commission). While the California courts have generally upheld the authority of local governments to regulate land use broadly, there have been reversals. Clearly, the outcome of any legal action cannot be predicted and a successful challenge to the Big Sur plan could render key provisions of the plan inactive. If the policies of the plan had to be rewritten in response to a court order, the current level of protection provided by the plan could be lost.

3. The California Coastal Commission Can No Longer Be Relied On to Prevent Amendments or Variances from Eroding the Big Sur Coast Land Use Plan.

Since its creation in 1973 the California Coastal Commission has consistently resisted large scale inappropriate development along the Big Sur coast. Yet today, ten years after the Commission was given permanent status by the passage of the 1976 California Coastal Act, its influence over coastal permit decisions is waning. This decrease in direct authority over most coastal development is largely a result of final certification of the Big Sur Coast Land Use Plan, yet it is also a function of the changing character of the Commission and the statewide management plan it administers. It is now the case that whereas California used to enjoy a national reputation for excellence in coastal management, California's program is now widely acknowledged as embattled and losing ground.

California's Coastal Management Program has produced some notable improvements to our shoreline and has blocked some damaging projects. But, serious problems with the administration of the Act threaten to reverse many of the hard won victories of the program. In particular, the Deukmejian administration's repeated budget cuts continue to slow up the program. The Commission seems unwilling to ensure that state and environmental interests are considered above parochial concerns. And the politicized appointment process has produced a slate of commissioners, the majority of whom do not vote to protect public interest and the environment first. Without a Commission that has vision and leadership, the program will flounder and the Commission's ability to preserve the integrity of the Big Sur Coast Land Use Plan will be in jeopardy.

4. The Big Sur Coast Land Use Plan Permits More Than a Doubling of Existing Development

Despite the strict development standards adopted by Monterey County and the Coastal Commission, the local land use plan still permits a level of development that would overwhelm the area's wild character if full build-out were to occur. Of the area's approximately 1200 existing parcels roughly 400 (33%) are now developed. The local plan permits one unit for each parcel for a total of 800 new residences plus 100 new subdivisions and approximately 100 new units produced by the Transfer of Density Credit System's two-for-one conversion policy for a total of 1000 new residences - a 250% increase from current residential use levels. Currently there are approximately 170 commercial hotel units along the Big Sur coast. The local land use plan permits 300 more which produces roughly a 175% increase in commercial hotel development.

While the absolute numbers involved in unit development in Big Sur are moderate the percentage increase is staggering. Clearly, if everything permitted by the plan were built the Big Sur would no longer offer the wild, scenic, natural amenities that it does now.

The Wilson bill's attempt to address this need to acquire lands or interests therein to prevent development from overwhelming the area is contained in section 9 which sets up a Trust to raise funds for acquisition of sensitive sites. NRDC foresees the need for funds to be especially critical in terms of preserving key scenic resource lands, providing access opportunities, preventing large scale mineral exploitation and protecting old growth timber. We believe it is important to establish that Congress is committed to providing funds to help implement the resource conservation policies of the local land use plan and to acquire sensitive resource lands through an appropriation from the Land and Water Conservation Fund. This is the approach prescribed in Congressman Panetta's 1980 Big Sur legislation (H.R.7380) which we supported at that time.

We also support chartering the existing Big Sur Land Trust with the authority to identify potential members and convene the nationally-recognized board. The Land Trust's experience in the area makes it well suited to set acquisition priorities and its fundraising ability could be greatly enhanced with a national charter. The legislation should make clear that if the Trust fails to raise sufficient funds within a specified period of time that a continuing federal appropriation will be made.

Aside from our concerns over the potential for changes in the Big Sur Coast Land Use Plan, NRDC considers the threat of large-scale mineral development on Pico Blanco to be the single greatest threat to the environmental integrity of the Big Sur coast. We have been party to successful litigation to compel the U.S. Forest Service to prepare an Environmental Impact Statement (EIS) on mining activities within the National Forest boundaries (Big Sur Foundation v. Block). We have also submitted an *amicus curiae* brief in a related case concerning the state's authority to regulate mineral activity on federal lands which is currently before the U.S. Supreme Court (California Coastal Commission v. Granite Rock). We have discussed our concerns regarding sections (§§5(f)(1) and (2) of S.2159 (which can be read to affect the fate of Pico Blanco) with counsel involved in the ongoing litigation and drafted language which addresses those concerns. The Big Sur Foundation which has been a party to both lawsuits listed above is prepared to present our specific language recommendations, which we endorse.

Another concern we have is with section 5(c) which authorizes the Secretary of Agriculture to regulate motorized recreational use in the proposed Scenic Area. This is in conflict with the Big Sur Coast Land Use Plan which declares that motorized equipment for recreational purposes is "inappropriate to the Big Sur coast and...in conflict with the rural environment, the protection of natural resources and the general peace of the area and are (is) not therefore provided for in the plan." LUP p.86, policy 5.4.2.6. Accordingly §5(c) of S.2159 providing for some use of motorized recreational vehicles on federal lands within the area is in conflict with the LUP and for consistency sake should be deleted.

NRDC's additional section by section comments on S.2159 will be submitted to committee before mark-up takes place. We would be happy to work with the committee on amendments to clarify key provisions of the bill.

Thank you for your attention to our comments. I will be glad to answer any questions you may have.

Senator **Wallop**. Thank you, Ms. Notthoff.

Mr. Hattoy.

STATEMENT OF BOB HATTOY, SOUTHERN CALIFORNIA REPRESENTATVE, SIERRA CLUB, SAN FRANCISCO, CA

Mr. **Hattoy**. Mr. Chairman, Senator Wilson, my name is Bob Hattoy. I am here as a national staff person representing the 373,000 members of the Sierra Club. I am pleased to support Senators Wilson and Cranston in their efforts to protect Big Sur. We commend their leadership in seeking long-term and effective protection for the Big Sur coast.

With certification of the final land use plan for Monterey County, the time is right to define the Federal Government's role protecting the scenic beauty of Big Sur.

Designation of the Big Sur Scenic Area brings together the diverse interests in Big Sur—Federal, State, and local government, residents, land preservation groups, and more. Without designation of the scenic area, Big Sur's incredible beauty is threatened by excessive and obtrusive real estate development, resource development such as the mine at Pico Blanco, and logging of old-growth redwoods, and the demands and pressures of the 3 million visitors each year on Big Sur's thin ribbon of highway.

While we support the certified land use plan as the standard for protection of the Big Sur coast, the Sierra Club would like to emphasize that this is the minimum standard for use and development of public and private lands. We commend the excellent work that resulted in the final land use plan approved by Monterey County and certified by the coastal commission. The Monterey County plan is a landmark in local planning efforts.

There are, however, limitations to local control. Some officials of Monterey County portray the plan as etched in stone and invulnerable to change. This simply is not true. State and local planning and zoning commissions are vulnerable to the whims of politicians and developers. Changes, variances, exceptions, and entire rewrites of local plans are not unusual. This may also happen at Big Sur. The plan may be the high point in land preservation in Monterey County and from now on the plan may only be weakened. Now is the time to legislate against that possibility.

As strong as the LUP is, it is merely words on paper without a strong incentive to abide by and enforce its provisions. This legislation is that incentive. The plan contains strong wording to protect the critical viewshed at Big Sur, but it is very difficult to do so without money. The coast trust established by this bill is an innovative attempt to engage the private sector in protecting public resources.

While modeled on the Ellis Island Foundation, the Sierra Club would not like to see Big Sur marketed as Lady Liberty was earlier this month. The fragile beauty and ecological sensitivity of the coast cannot handle such exposure.

We recommend using land and water conservation fund moneys as a means to assure acquisition funds are available at all times. Occasionally properties may become available which the Secretary is unable to purchase because the trust has not raised sufficient funds. The opportunity to purchase a key piece of real estate must not slip by merely because the Trust is not yet organized or because the private sector is not responding as expected. The public's money must be spent to acquire the public's land.

The Sierra Club cannot support an effort at protection that hinges solely on a speculative, albeit highly commendable, effort to raise money from private sources. We seek an initial appropriation of $10 million for the purposes of land acquisition.

While Big Sur may succeed in attracting private funds, lesser-known public lands may not be able to sustain a similar effort. At a minimum, S. 2159 must clearly state that this is not intended to set a precedent or operate as a pilot project for public land acquisition in the United States. The U.S. taxpayer is asked to subsidize timber sales and mining reclamation. Polls have shown that taxpayers would like to pay to protect our public lands.

By allowing public comment and lifetime occupancy in the event of condemnation, the language in S. 2159 is sensitive to the needs and concerns of local residents, while still providing a necessary fallback in the event the best efforts to prevent incompatible development do not succeed.

We applaud the initiative of Senators Wilson and Cranston, local residents, and Congressman Panetta to protect this coastal gem. S. 2159 is an insurance policy for the spectacular success of the land use plan. Big Sur deserves no less.

Thank you for the opportunity to appear before this committee.

[The prepared statement of Mr. Hattoy follows:]

SIERRA
CLUB
330 Pennsylvania Avenue, S.E., Washington, D.C. 20003 (202) 547-1141

TESTIMONY OF BOB HATTOY
SOUTHERN CALIFORNIA REPRESENTATIVE
SIERRA CLUB

ON S. 2159
A BILL TO DESIGNATE THE BIG SUR SCENIC AREA

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

July 31, 1986

"When we try to pick out anything by itself, we find it hitched to everything else in the universe." *John Muir*

Mr. Chairman and Members of the Subcommittee, my name is Bob Hattoy. I am representing the 373,000 members of the Sierra Club. I am pleased to support Senators Wilson and Cranston in their efforts to protect Big Sur. We commend their leadership in seeking long-term and effective protection for the Big Sur coast. With certification of the final Land Use Plan (LUP) for Monterey County, the time is right to define the federal government's role protecting the scenic beauty of Big Sur.

Designation of the Big Sur Scenic Area brings together the diverse interests in Big Sur -- federal, state, and local government, residents, land preservation groups, and more. Without designation of the Scenic Area, Big Sur's incredible beauty is threatened by excessive and obtrusive real estate development, resource development such as the mine at Pico Blanco and logging of old-growth redwoods, and the demands and pressures of three million visitors each year on Big Sur's thin ribbon of highway.

While we support the certified LUP as the standard for protection of the Big Sur coast, the Sierra Club would like to emphasize that this is the minimum standard for use and development of public and private lands. Lest we begin to believe the LUP is the absolute high point of land protection, let me point out that the LUP allows for almost a tripling of existing development in Big Sur.

We commend the excellent work that resulted in the final LUP approved by Monterey County on March 18, 1986 and certified by the Coastal Commission on April 9, 1986. The Monterey County plan is a landmark in local planning efforts. There are, however, limitations to local control.

Some officials of Monterey County portray the LUP as etched in stone and invulnerable to change. This simply is not true.

State and local planning and zoning commissions are vulnerable to the whims of politicians and developers. Changes, variances, exceptions and entire rewrites of local plans are not unusual. This may also happen at Big Sur. The LUP may be the high point in land preservation in Monterey County and from now on the Plan may only be weakened. Now is the time to legislate against that possibility.

As strong as the LUP is, it is merely words on paper without a strong incentive to abide by and enforce its provisions. S.2159 is that incentive.

The LUP contains strong wording to protect the critical viewshed at Big Sur, but it is very difficult to do so without money. The Coast Trust established by S. 2159 is an innovative attempt to engage the private sector in protecting public resources. While modeled on the Ellis Island Foundation, the Sierra Club would not like to see Big Sur marketed as Lady Liberty was earlier this month. The fragile beauty and ecological sensitivity of the coast cannot handle such exposure.

We recommend using Land and Water Conservation Fund monies as a means to assure acquisition funds are available at all times. Occasionally properties may become available which the Secretary is unable to purchase because the Trust has not raised sufficient funds. The opportunity to purchase a key piece of real estate must not slip by merely because the Trust is not yet organized or because the private sector is not responding as expected. The public's money must be spent to acquire the public's land. The Sierra Club cannot support an effort at protection that hinges solely on a speculative, albeit highly commendable, effort to raise money from private sources. We seek an initial appropriation of $10 million for the purposes of land acquisition.

While Big Sur may succeed in attracting private funds, lesser-known public lands may not be able to sustain a similar effort. At a minimum, S. 2159 must clearly state that this is not intended to set a precedent or operate as a pilot project for public land acquisition in the United States. The U.S. taxpayer is asked to subsidize timber sales and mining reclamation, the taxpayer must also pay to protect our public lands.

By allowing public comment and lifetime occupancy in the event of condemnation, the language in S. 2159 is sensitive to the needs and concerns of local residents, while still providing a necessary fallback in the event the best efforts to prevent incompatible development do not suceed.

The Secretary's power of eminent domain, as presently drafted, is entirely dependent on the county either amending the LUP, granting a variance or exception to the plan, or requesting the Secretary to acquire the property. There should be some reserve authority for the Secretary to invoke the power of eminent domain after making his own determination that a use is inconsistent with both the Plan and the purposes of the Act with notice to the potentially affected landowner and public, and public hearings.

What happens when a new use occurs which is inconsistent with the Plan, but which proceeds in flagrant violation? There are two possible ways to negate the protections of the LUP, one is by weakening the Plan, the other, even more dangerous, is ignoring the Plan completely. The legislation fails to address development activities which occur in violation of the Plan. We urge the Subcommittee, Senators Wilson and Cranston to amend S. 2159 to prevent this possibility.

It is essential that the Secretary of Agriculture be notified of any changes of any kind to the Plan. Without this ongoing communication, the essential oversight of the LUP will not occur in any meaningful manner.

The mining claims at Pico Blanco pose an immediate and serious threat to Big Sur. We support the recommendations of the Big Sur Foundation. In addition, we request the Secretary of Agriculture to study and report to Congress on the cost of acquiring valid claims.

We applaud the initiative of Senators Wilson and Cranston, local residents, and Congressman Panetta to protect this coastal gem. S. 2159 is an insurance policy for the spectaclar success of the LUP. Big Sur deserves no less.

Thank you for the opportunity to appear before the Subcommittee today.

Senator **Wallop**. Thank you, Mr. Hattoy.
Ms. Figen.

STATEMENT OF JANIE FIGEN, VENTANA CHAPTER, SIERRA CLUB, MONTEREY, CA

Ms. **Figen**. My name is Janie Figen. I represent the Ventana Chapter of the Sierra Club. The Ventana Chapter of the Sierra Club represents 4,300 members of the club who live in the Monterey area of California. Our chapter includes the Big Sur coast. Chapter members have been involved in protecting the unique values of the Big Sur since before the chapter was organized in 1963. Our members took part in the planning process that has involved what seemed like endless meetings and public hearings.

This process resulted in the Big Sur Local Coastal Plan that was certified by the California Coastal Commission on April 9, 1986. The introduction of S. 2159, Senator Wilson's bill, has served as a catalyst, uniting local groups of quite different interests. Even those who have previously spoken for no regulation of any kind for Big Sur, now support the Big Sur local coastal plan.

S. 2159 proposes a national trust fund to be raised from private donations. The chapter is concerned that limiting funding to the private sector would set a dangerous precedent for other areas that need to be acquired for public benefit but may lack some of Big Sur's glamour.

Because of the national importance of Big Sur, the chapter thinks that public funding is appropriate. We suggest that the land and water conservation fund, which gets its funds from levies on off-shore drilling and exploration, be used. It seems only equitable that at least some of these funds should be used to protect a part of the California coast.

A continuing threat to Big Sur has been the existence of mining claims and plans for mining. The proposal for large-scale mining of limestone on Pico Blanco caused great public outrage. Students at Carmel High became so enraged at the idea of mining on Pico Blanco that they produced a documentary film which captured the rare beauty of the area for people who had not been able to see the mountain themselves.

While all this happened back in the seventies, local feeling is still going strong against mining on Pico Blanco. The Pico Blanco Coalition has been formed to continue this fight. The coalition consists of the Sierra Club, the California Native Plant Society, and the Monterey Audobon Society. To end the threats to Pico Blanco and other areas of Big Sur, we urge the withdrawal of all Federal lands in the Big Sur area from the Mining Law of 1872.

In addition, if any claims are proved perfected where mining would be incompatible with the policies of the land use plan, we suggest they be exchanged for other National Forest Lands or purchased, if necessary.

Representatives of the Forest Service have met with local residents and expressed a willingness to cooperate. But we think that specific goals and policies that would provide protection for the area should be written into the plan.

The Forest Service also has the task of reviewing timber harvest plans, and we need additional policies in considering those documents. This kind of direction is too important to the area to rely on voluntary cooperation. We request the inclusion of those policies.

Finally, while thanking Senator Wilson, we want to acknowledge the ongoing effort of our local Congressman, Leon Panetta. Representative Panetta has worked to create a climate of support for the land use plan, which serves as a base of protection offered Big Sur in S. 2159. He has accomplished this through a long series of meetings with local residents.

Senator WALLOP. Can I ask you, please, to summarize?

Ms. FIGEN. I have one sentence more.

In order to secure protection that will prevent weakening amendments to the LCP and secure the continued existence of Big Sur, we need the support of both the House and the Senate in a nonpartisan effort to create the necessary legislation.

Thank you.

[The prepared statement of Ms. Figen follows:]

SIERRA CLUB ~ VENTANA CHAPTER
P. O. BOX 5667, CARMEL, CALIFORNIA 93921
CHAPTER OFFICE   ENVIRONMENTAL CENTER (408) 624-8032

TESTIMONY OF JANIE FIGEN
VENTANA CHAPTER, SIERRA CLUB

ON S. 2159
A BILL TO DESIGNATE THE BIG SUR SCENIC AREA

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

July 31, 1986

. . . To explore, enjoy, and preserve the nation's forests, waters, wildlife and wilderness . . .

SIERRA CLUB ~ VENTANA CHAPTER
P. O. BOX 5667 CARMEL, CALIFORNIA 93921
CHAPTER OFFICE ENVIRONMENTAL CENTER (408) 624-8032

Testimony on S.2159 (Senator Wilson's Big Sur Bill) July 31, 1986

The Ventana Chapter of the Sierra Club represents 4300 members of the the Club who live the Monterey Bay area of California. Our chapter includes the Big Sur coast. Chapter members have been involved in protecting the unique values of the Big Sur since before the chapter was organized in 1963. Wilderness designation for areas adjacent to Big Sur was actively promoted and achieved with the support of the chapter. We have long published and sold trail guides to the area, Trail Guide to Los Padres National Forest (Monterey Division). We are presently preparing the fourth edition while selling the fourth printing of the third edition. Our members took part in the planning process that has involved what seemed like endless meetings and public hearings, a process that has continued for more than ten years. This process has resulted in the Big Sur Local Coastal Plan that was certified by the California Coastal Commission on April 9, 1986. The introduction of S.2159, Senator Wilson's Bill, has served as a catalyst uniting local groups of quite different interests. Even those who have previously spoken for no regulation of any kind for Big Sur, now support the Big Sur Local Coastal Plan (LCP).

The most important aspect of Big Sur to the public is the view, most usually from a car window. The preservation of this magnificent viewshed is one of the primary goals of the LCP. The lack of available funds to compensate landowners who are not allowed to build on lots in the viewshed poses a threat to the success of the LCP.

Various methods of compensating these landowners have been suggested. The LCP proposes a Transfer of Development program (TDC). The exact mechanisms of this TDC program are yet to be spelled out, but it is clear that it would result in increased densities in other areas of Big Sur. S.2159 proposes a national trust fund to be raised from private donations. The chapter is concerned that limiting funding to the private sector would set a dangerous precedent for other areas that need to be acquired for the public benefit but which may lack in some of Big Sur's glamor. Because of the national importance of Big Sur, the Chapter thinks that public funding is appropriate. We suggest that the Land and Water Conservation Fund, which gets its funds from levies on off-shore drilling and exploration, be used. It seems only equitable that, at least, some of these funds be used to protect a part of the California coast. Perhaps some state funding will be available from a proprosed bond issue that may appear on the November ballot in California. The private sector remains as a third potential source of funds. A problem with fundraising in the private sector is that it may over-promote the Big Sur area and thereby contribute to problems attendant with overuse. We have concerns that the Trust Fund, as outlined in S.2159, modeled after the Statue of Liberty-Ellis Island plan, may create more publicity that the area can tolerate. This unique area has aready been the focus of much attention throughout the state and nation. The scenic, two-laned road, which serves the area, and which cannot always be kept open, is already heavily congested and plagued with traffic delays.

A continuing threat to Big Sur has been the existence of mining claims and plans for mining. The proposal for large scale mining of limestone on Pico Blanco caused great public outrage. Students at Carmel High School became so enraged at the idea of mining on Pico Blanco that they produced a documentary film which captured the rare beauty of the area for those who had not seen the mountain themselves. While all this happend in the early seventies, local feeling is still in strong opposition to mining Pico Blanco. The Pico Blanco Coalition was formed in 1982 to continue the fight to protect the mountain. The coalition consists of the Sierra Club, the California Native Plant Society and the Monterey Peninsula Audobon Society. To end the threats to Pico Blanco and other areas of Big Sur, we urge the withdrawal of all federal lands in the Big Sur area from the Mining Law of 1872. In addition, any perfected mining claims in which mining would be incompatible with the LCP, should be exchanged for other National Forest Lands or purchased.

Representatives of the United States Forest Service have met with local residents and expressed a willingness to cooperate, and an intent to abide by the policies of the LCP. The Draft Forest Management Plan for the Los Padres has just been released for public review and comment. During the review period, we have an opportunity to attempt to write the policies of the LCP into the Forest Plan. The Draft Forest Management Plan, the preferrred alternative, appears to have vague general goals.

We think that specific goals and policies that would provide protection for the area should be written into the plan. The Forest Service also has the task of reviewing Timber Harvest Plans (THPs) for logging operations in the forest. Additional policies in the review of THPs, which would allow consideration of the cumulative impacts and the impacts of logging on the surrounding roads and area. Also, consistency provisions with the LCP would benefit Big Sur. This kind of direction is too important to rely on voluntary cooperation. The Executive Committee of the Chapter recommends that this be included in federal legislation.

We agree with Senator Wilson on the need for a LC Advisory Board for Big Sur. We think the board should coordinate the efforts of the many different agencies involved in Big Sur. To reflect this responsibility, we suggest that the board meet at least quarterly, more often if needed. The membership of the board should be limited to seven with other concerned persons serving in ex-officio positions. These members would be:

1. A Monterey County Supervisor.
2. A representative of the Supervisor of the Los Padres Forest.
3. A representative from the California Coast Commission staff.
4. A representative of the California Department of Parks and Recreation.
5. A representative of the California Department of Transportation.
6. A representative from the Ventana Chapter of the Sierra Club.
7. A resident of Big Sur chosen by the Monterey County Board of Supervisors.

With regard to mineral leasing in the OCS, the withdrawal of areas off the coast of Big Sur from drilling and exploration seems at first glance to be very attractive. Unfortunately, the twenty mile zone proposed is not sufficient to ensure the survival of the California sea otter in the event of an oil spill. A single major spill could prove disastrous to this species. Singling out the Big Sur coast for separate protection from off-shore drilling may put other fragile areas of the California coast (such as Mendocino) at even greater risk. Therefore, we oppose the inclusion of any OCS ban in this legislation.

Finally, while thanking Senator Wilson, we want to acknowledge the ongoing effort of our local Congressman, Leon Panetta. Representative Panetta has worked to create a climate of support for the LCP which serves as a base for the protection offered Big Sur in S.2159. He has accomplished this through a long series of meetings with local residents. In order to secure the protection that will prevent weakening amendments to the LCP and secure the continued existence of Big Sur, we need the support of both the House and the Senate in a non-partisan effort to create the necessary legislation.

Senator WALLOP. Thank you.

Ms. Fishel.

STATEMENT OF MADDY FISHEL, NATIONAL PARKS PROGRAM DIRECTOR, THE WILDERNESS SOCIETY

Ms. FISHEL. I am Maddy Fishel, the National Parks Program Director for the Wilderness Society. I appreciate this opportunity to present our views on S. 2159.

The society has long been a strong proponent of Federal protection for the Big Sur coast because it is such a very special, unique, and beautiful resource area. We thank Senator Wilson for his leadership in sponsoring S. 2159 and Senator Cranston for his cosponsorship.

We believe the National Forest Scenic Area designation is appropriate for Big Sur and will achieve protection without changing the existing character of the area. Further, we support the integrated local, State and Federal management scheme embodied in the bill.

Today I wish to express our general support for the bill and call for certain additional provisions directed toward clarifying and strengthening the Federal role in the protection of Big Sur.

We strongly agree with the management provisions contained in S. 2159 to prohibit commercial timber harvesting, geothermal development, oil and gas leasing, and mining subject to valid existing rights.

We also support the bill's intent to restrict grazing and recreational motorized vehicle use in the proposed scenic area. We believe it is important in this regard that there be clarification in the bill to state explicitly that the current level of use should be regarded as a ceiling, not as a mandated level of grazing and recreational motorized vehicle use.

We strongly urge the subcommittee to amend the bill to include authorization for the appropriation of funds for Federal land acquisition under the Land and Water Conservation Fund. We believe that Federal backup may be very important in situations where private funding efforts are unable to raise revenues and there is a threat of losing valuable properties.

We also believe that if condemnation authority is to hinge on violations or weakenings of the land use plan, that there needs to be a Federal commitment of funding to back up and make this provision powerful.

In summary, we support the bill with the incorporation of these and other strengthening provisions detailed in our testimony today.

Thank you.

[The prepared statement of Ms. Fishel follows:]

THE WILDERNESS SOCIETY

STATEMENT OF MADDY FISHEL, THE WILDERNESS SOCIETY, BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE, SUBCOMMITTEE ON PUBLIC LANDS, ON S. 2159. 31 JULY 1986.

I am Maddy Fishel, the National Parks Program Director for The Wilderness Society, a 160,000-member national conservation organization devoted to the wise stewardship of the federal public lands. I appreciate this opportunity to present our views on S. 2159, "The Big Sur National Forest Scenic Act".

The Wilderness Society has long been a strong proponent of federal protection for the spectacular Big Sur Coast. We commend Senator Wilson for his foresight and leadership in sponsoring S. 2159 and Senator Cranston for both his cosponsorship and his longstanding commitment to federal protection for Big Sur. We also wish to thank the Subcommittee for taking up this Bill.

We believe the National Forest Scenic Area designation is appropriate for Big Sur and will achieve protection without changing the existing character of the area. Further, we support the integrated local, state and federal management scheme embodied in S. 2159 which incorporates Monterey County's Land Use Plan (LUP) as the standard of protection for the non-federal portions of the Scenic Area. We do so recognizing

1400 EYE STREET, N.W. WASHINGTON, D.C. 20005
(202) 842-3400

that the recently adopted and certified LUP, while providing a strong vision for restricted growth in Big Sur and protection of the critical viewshed, is an untested land protection vehicle. Thus it will be important that the Congress, the California Senators and private groups dedicated to protection of the area be committed to monitoring the progress of implementation of the LUP, to ensure the success of this innovative protection model.

The goals we undertake to achieve in seeking federal protection for the Big Sur coast are (1) to protect the nationally significant natural resources and scenic beauty of Big Sur and (2) to perpetuate the rural character of the existing communities in the area. Today, I wish to express our general support for S. 2159 and call for certain additional provisions directed towards clarifying and strengthening the federal role in protection of Big Sur.

MANAGEMENT

We strongly agree with the management provisions contained in S. 2159 to prohibit commercial timber harvesting, geothermal development, oil and gas leasing, and mining (subject to valid existing rights). We believe restrictions on new development on the Federal lands including resorts, concessionaires and administrative facilities would be an appropriate addition to the Bill. Such restrictions are a necessary part of protecting the rural quality and fragile ecology of the Big Sur area. We believe they set an appropriately strong standard of management consistent with upgrading the protection of the existing Los Padres National Forest lands to a designated National Forest Scenic Area.

We support the Bill's intent to restrict grazing and recreational motorized vehicle use in the Scenic Area. S. 2159 seems to restrict these activities to current areas of use and up to current levels of use in those areas. We believe it is important that this be clarified to state explicitly that the current level of use should be regarded as a ceiling, not a mandated level of grazing and recreational motorized vehicle use. It is also important that the Secretary retain authority to terminate grazing and motorized vehicle activity in these areas or specific portions of them if, in his judgement, continued use poses a threat to the integrity of the resource or other values of the Scenic Area.

We agree with the priority placed in the Bill upon the development, by the Secretary, of a Comprehensive Management Plan for the Scenic Area. The Plan will provide an essential blueprint for future management of federal lands in the area. While we do not oppose the establishment of an Advisory Board, composed of state and local representatives, we feel strongly that the Board should function solely in an advisory capacity. We believe the wording of S. 2159 should make it clear that the Board would in no way have authority to override the decisions of the Secretary in the development of the Plan.

ACQUISITION OF LANDS & CONDEMNATION AUTHORITY

We strongly urge the Subcommittee to amend S. 2159 to include authorization for the appropriation of funds for federal land acquisition under the Land and Water Conservation Fund (LWCF). If political expediency does not permit immediate LWCF authorization, we recommend that the Bill provide for LWCF authority to begin no later than one year following enactment.

Acquisition is an important land protection tool which will undoubtedly play a key role in achieving lasting protection for Big Sur. S. 2159 recognizes the long-term need for funds to bring additional lands under public ownership and protection in the proposed Scenic Area. It identifies land acquisition as a protection tool to act against weakening and violation of the LUP and also directs the Secretary to place priority on the acquisition of willing-seller properties. We agree fully with the importance the Bill places upon land acquisition in the protection of Big Sur.

The land acquisition strategy embodied in S. 2159 establishes the Big Sur Coast Trust, a private, non-profit organization dedicated to this purpose. While an entity such as the proposed Big Sur Coast Trust can serve as a vital complement to direct federal acquisition, we believe that federal acquisition authority is essential in the overall strategy of preserving the Big Sur coast. We are skeptical about the strong reliance over time on the capability of such an entity to raise all the funds that may be required to meet important acquisition needs in the proposed Scenic Area. Without a correlary federal acquisition program valuable tracts of land may be lost when revenues to purchase them through private funding sources fall short. Further, the availability of federal money to purchase lands originally bought and held by local land trusts is important to free-up the limited resources of such groups for further acquisition projects.

We believe federal acquisition authority is part of the government's responsibility and commitment in undertaking to designate and protect the Big Sur National Forest Scenic Area. It is consistent with the shared federal, state and local protection strategy proposed in S. 2159. We recommend further, that any lands purchased with federal dollars should remain under federal ownership and be managed as a part of the Federal portion of the Scenic Area.

S. 2159 restricts the Secretary's condemnation authority to only those circumstances where the LUP is being violated or weakened. The effectiveness of this provision, both as a deterrent against violations of the LUP and as a safeguard against its weakening, depends on the Secretary's ability to enforce it. Unless the federal government has made the commitment to provide funds necessary to purchase threatened lands, through inclusion of LWCF authority in the Bill, this is a potentially unenforceable and thus powerless provision.

Generally, The Society does not favor restrictions on the Secretary's discrete power to invoke condemnation over threatened lands. However, recognizing the integrated role of the LUP, as a protection standard for non-federal lands, we are willing to support the special approach contained in S. 2159. We believe that the condemnation provision should be strengthened to be truly effective. We urge the Subcommittee to mandate, rather than simply to permit, the Secretary to condemn property where the protection standards of the LUP are violated or weakened.

CONVEYANCE OF LANDS

We recognize the legitimate role and importance of the State, Monterey County and private land trust organizations in the protection of the Big Sur area in terms of the management of existing state parklands, the successful implementation of the LUP and continuing land acquisition efforts. We are, however, concerned by the provision in S. 2159 which directs the Secretary to "offer conveyance without consideration all lands acquired within the boundaries of the Scenic Area, but outside of the Los Padres National Forest boundary, first to the County of Monterey, second to the State of California, and third to any private non-profit land trusts ... unless the Secretary determines that these lands can more efficiently be managed by the Los Padres National Forest."

We disagree with the fundamental bias of this provision which seems to suggest that the federal government would, in most cases, be the least efficient manager for newly acquired lands. We believe that the majority of lands acquired by the Secretary for purposes of the federal Scenic Area should be maintained in federal ownership and management unless specific management considerations warrant otherwise. We would not object to language which directs the Secretary to make a case-by-case examination of the advisibility of a transfer of acquired lands. We believe that in most cases the Forest

Service, already the primary landowner in the area, would provide longterm consistency in management of lands acquired as additions to the existing Federal lands. If federal designation of Big Sur is predicated upon the national significance of the area, the Forest Service, -- unlike the State, County or private organizations -- is the only institution mandated to manage lands in the national public interest.

SUMMARY

In summary, I wish to reiterate our strong support for federal protection of the Big Sur coast as a National Forest Scenic Area. With the incorporation of the strengthening provisions outlined above, we suppport the enactment of S. 2159.

Thank you.

Senator HECHT [presiding]. Thank you very much.

Senator, if you have no questions, we will continue right on. Mr. Saunders Hillyer.

STATEMENT OF SAUNDERS C. HILLYER, TRUSTEE, BIG SUR FOUNDATION

Mr. HILLYER. My name is Saunders Hillyer. I represent the Big Sur Foundation. I think the main purpose of the pending legislation is to address the need to define the Federal role in Big Sur. As a starting point, there are three considerations I think should be taken into account. First is that Big Sur is a consensus national treasure. No one has disputed that now, or in 1980, or ever.

The second is that the Federal Government already owns half of the Big Sur coast, which is administered by the U.S. Forest Service.

The third is a somewhat more controversial fact. We would not have a strong land use plan today, which has received a lot of attention at this hearing so far, were it not for the congressional interest in the Big Sur coast expressed since 1978. It is only because Congress has shown interest in the Big Sur coast and drawn fire from those who opposed protection of the Big Sur coast that Monterey County has had the maneuvering room to do the good work that it has done today.

If that Federal congressional interest were ever withdrawn, if the Congress were ever to abandon its interest in the coast, the land use plan would unravel. The support that you hear today, the unified support for the land use plan, is more unified opposition to a Federal role than support for a strong land use plan.

I might say a word about the Big Sur Foundation. We bear as much credit, responsibility, or blame for the Big Sur coast land use plan as anyone in this room. We specifically have played a leadership role in those provisions governing mineral resources and protection of the scenic beauty, the critical viewshed.

Against this background, let me make several specific comments on S. 2159. First, we strongly support a declaration of national policy of commitment to protect the Big Sur coast, even if the responsibility for doing so is deferred to local and State authorities. It is important to make formal that national congressional commitment.

Second, only Congress can stop the large scale surface mining that the Granite Rock Co. proposes for Pico Blanco. This mining is proposed for National Forest mining claims. There is Supreme Court litigation underway that addresses the issue of whether the State can regulate.

But the more fundamental issue which concerns us is how to prohibit the mining there, we support prohibition of mining there. We do so with the following condition: that the mining operator be given fair compensation for any property rights that it has perfected in those claims. We doubt that any rights have been perfected. We urge Congress to undertake a validity determination so that light is shed on that subject.

Thank you.

[The prepared statement of Mr. Hillyer follows:]

THE
BIG SUR
FOUNDATION

Point Sur storm. By Ansel Adams

BOARD OF TRUSTEES
WILL SHAW
President
ANSEL ADAMS
Vice President
EDWARD D. LANDELS
Vice President
JULIE PACKARD
Secretary/Treasurer
MYRON E. ETIENNE, JR
FREDRICK S. FARR
JAMES J. HILL, III
VIRGINIA B. MUDD
COLETTE M. SEIPLE
KEN WRIGHT

SAUNDERS C. HILLYER
Executive Director
DAVID H. VENA
LATHAM & WATKINS
Legal Counsel

225A CANNERY ROW
MONTEREY, CA 93940
(408) 649-3013

BIG SUR FOUNDATION

TESTIMONY

BEFORE THE PUBLIC LANDS

SUBCOMMITTEE OF THE SENATE

ENERGY COMMITTEE ON

S 2159, A BILL TO CREATE

THE BIG SUR NATIONAL FOREST SCENIC AREA

SUBMITTED BY SAUNDERS C. HILLYER

July 21, 1986

Mr. Chairman, I am Saunders C. Hillyer, a Trustee of the Big Sur Foundation. We appreciate the opportunity to testify today on S 2159.

The Big Sur Coast is a consensus national treasure, one that is on a par with Yosemite, Yellowstone and other of the most outstanding units of our National Park System. In the ten year debate over the Federal role in protecting Big Sur, no one has ever questioned its value to the nation as an aesthetic, spiritual sanctuary. Rather, the debate has focused on defining this Federal responsibility with emphasis on reinforcing local and state efforts.

The Big Sur Foundation was formed in 1978 to address the problem of how to keep the Big Sur Coast the way it was at that time and to a great extent still is today. Ansel Adams was a founder of the Foundation and served as Vice President until his death in 1984. Other Trustees include landowners, architects, attorneys, politicians and community leaders, several of whom have worked for decades to protect the coast.

Since its inception the Foundation has played a leading role in the development, adoption and certification of the Big Sur Coast Land Use Plan. It has borne especially heavy responsibility in recent years for the Land Use Plan's policies governing scenic and mineral resources and for the development of a Transfer of Density Credit System. Since 1983 our single most intense focus has been on controlling surface mining on national forest mining claims at Pico Blanco. In 1979 and 1980 we also played a leadership role in the debate over Federal legislation.

It is our position that the Federal government, as owner of half the land on the Big Sur Coast, has an inevitable role to play in the protection and management of the Big Sur Coast. S 2159 addresses key issues concerning this Federal role that we think must be addressed by Congress. However, with the exception of specific provisions concerning Pico Blanco, we are not prepared at this time to endorse the bill's specific language on these key issues or to propose our own. Rather, we discuss in general terms the direction in which we would like to see Congress move and we would like to have the opportunity to work with its committees and their staffs -- in both the House and Senate -- to refine these specific provisions as the legislative process unfolds.

With respect to the need for a focused Federal role in Big Sur, I would like to quote from testimony on behalf of Monterey County made in 1980 by Edward DeMars at a Congressional field hearing on legislation pending at that time. Mr. DeMars recently retired as Director of the Monterey County Planning Department after more than a quarter century of service in that position. He testified in part:

> ". . . (W)e recognize the Big Sur Coast as the national treasure that it is. We also recognize that in preserving the Big Sur Coast we hold a public trust that transcends our usual responsibilities to our own local constituents. In this instance, our responsibilities go beyond our County boundary because of the national and international attention drawn to this precious national resource.
>
> . . . the protection of the Coast has always been envisioned as a total cooperative project, citizens, local jurisdictions, state and federal government participation was, and is, considered essential . . .
>
> You may well discuss the degree or detail of federal involvement but I can't see any way that you can question federal responsibility."

The need for Congress to define the Federal role in Big Sur arises from both technical and political considerations. The technical issues concern legal, constitutional or funding constraints on one level of government or another - - that is, on either Monterey County, the State of California or the U. S. Forest Service - - and the need to coordinate agencies at all levels of government.

In 1985 the Foundation prepared a Status Report On Land Use On The Big Sur Coast that addressed the technical problems associated with implementation of the Big Sur Coast Land Use Plan. A copy of this report is attached to my testimony. I summarize below its discussion of several key issues and respectfully request that the report as a whole be included in the record of this hearing.

Since this report was written, the Land Use Plan it addressed has been certified by the California Coastal Commission. Consequently, the concerns it addresses are even more valid today than they were a year ago when it was written.

The following political considerations underscore the need for Congress to define the Federal role in Big Sur. Reasonable people can differ over specific provisions of S 2159 or even over whether any legislation is needed. However, it should be noted that the Big Sur community has a notoriously volatile element that historically has attacked all proposals to protect the Big Sur Coast regardless of who made them. This opposition has been evident ever since debate took place over the 1962 County Master Plan for the coast.

This year it is the Wilson bill that has come under attack. In 1980 it was first the Cranston bill and later the Panetta bill. Often the California Coastal Commission and Monterey County Board of Supervisors have bourne the brunt of this attack.

The present expression of unified support for the County's Land Use Plan is pleasing, yet potentially deceptive. The real unifying element is not the local Land Use Plan but opposition to S 2159. Unfortunately, many of those paying lip service to support for the local Land Use Plan today will revert to their previous posture of outright opposition to it if Congress ever turns its back on the Big Sur Coast.

In this light it should be noted that Congress has played an important role over the last ten years in making possible adoption by Monterey County of a sound Land Use Plan. Congressional interest in Big Sur has drawn fire away from both the County and state, giving them room to do the good work they have thus far accomplished.

These political problems are exacerbated by institutional ones. Although the Monterey County Planning Department presently has excellent staff personnel, in recent years it has experienced a thorough turnover of staff who have worked on the Big Sur Coast Land Use Plan since 1978. Accordingly, its institutional memory is thin.

The California Coastal Commission, on the other hand, continues at present to have excellent staff who are thoroughly knowledgeable about the Big Sur Coast. However, due to budget cuts and political turnover among the Commissioners themselves, the California Coastal Commission is not the bulwark it once was and can no longer support the weight of protecting the coast that it once did.

As Michael Fischer, then Executive Director of the California Coastal Commission testified at a 1980 Congressional hearing on Big Sur legislation:

> ". . . regulation by its nature is a transitory device-- it's a reflection of constantly changing community attitudes, changing political priorities. It's too chancy a guarantee upon which this generation can base the fulfillment of its long-run obligation to the future."

It is the Big Sur Foundation's position that the following specific subjects addressed by S 2159 need Congressional attention in order to prevent the Land Use Plan from unravelling and in order to achieve its implementation.

1. General policy. It is important that a bill be enacted that makes a strong declaration of national policy to protect the scenic, ecological and recreational resources of the Big Sur Coast and that expresses a Federal commitment to doing so. This policy declaration is needed even if Congress

defers substantial responsibility for protecting and managing the coast to Monterey County, the State of California, and the private community, as we would recommend. However, Congressional restraint must never be confused with Congressional indifference. That is why a strong expression of Federal commitment is necessary.

In our opinion Sections 2 and 3 of S 2159, subject to minor revisions, make the type of policy declarations we have in mind. Similarly, Sections 2 and 3 of H. R. 7380, the 1980 "Panetta bill," also contain sound policy declarations that serve as a useful model.

2. Pico Blanco and mining on Federal mining claims. The Big Sur Foundation is opposed to surface mining for limestone on Pico Blanco. We seek to prevent such operations on Federal claims in the Los Padres National Forest provided that fair compensation is paid to the holders of such claims for any property rights they may have perfected in them. However, in our opinion there is strong reason to doubt that the present operator has perfected its claims there.

It is the policy of the Big Sur Coast Land Use Plan to prohibit large scale surface mining any place on the Big Sur Coast. However, the County and State are preempted by the 1872 Mining Act from doing so as a matter of policy on the Los Padres National Forest. This creates the risk that the mining operations at Pico Blanco will proceed in spite of the fact that they would be grossly inconsistent with the policies of the Land Use Plan and would cause major disruption of the northern half of the Big Sur Coast.

The litigation currently pending before the United States Supreme Court only addresses the issue of whether the state can regulate the mining operations at Pico Blanco, not whether the state, or local governments to which the state has delegated its power, can prohibit mining on Federal claims as a matter of policy. Only Congress can do that.

We have prepared specific language addressing this issue that builds on and modifies Section 5 (f) (1) and (2) of S 2159. Our proposed language is attached to this testimony. Briefly summarized, it would withdraw Federal mining claims in the scenic area from entry under the mining laws as provided in Section 5 (f) (1). Second we would compel a determination of the validity of such claims before operations on them can be commenced or resumed. Any claims determined not to be valid would be nullified. Third, with respect to any claims that are determined to be valid, the Secretary of Agriculture is mandated to report back to Congress the estimated cost of acquiring them.

We believe these are the minimum provisions needed to stop the mining on Pico Blanco and to inform Congress about the cost, if any, of doing so.

3. Enforcement of the Big Sur Coast Land Use Plan. Monterey County's Land Use Plan for the Big Sur Coast, as presently certified, is very good. However, it is subject to amendment at any time by a majority vote of the Board of Supervisors. Further, as the composition of the Board and California Coastal Commission evolve, specific permits may be granted that are inconsistent with the Land Use Plan's provisions. Moreover, without adequate funding to compensate landowners, the County and State may be compelled to grant permits for development in the Critical Viewshed that is inconsistent with the Plan's most fundamental policy.

We submit that these uncertainties provide too much insecurity to protect the public interest in the preservation of the Big Sur Coast as a nationally significant resource. Accordingly, we strongly urge Congress to devise a mechanism to back up enforcement of the Land Use Plan. We are not certain at present of the best way to address this difficult issue and would appreciate the opportunity to submit supplemental testimony on it or to work on it with Committee staff.

S 2159 proposes in Section 7 (c) (1) to use the Federal condemnation power as an enforcement tool. Although this may be the best approach, it nevertheless poses severe problems.

First, the spectre of Federal condemnation power, even when tightly constrained as it is by S 2159, is immensely threatening to the local community. Regardless of whether this fear is rational or irrational, it is a political factor to contend with.

Second, the condemnation power is inherently unwieldy and unreliable. For it to work, the Secretary of Agriculture, or the U. S. Forest Service personnel with line responsibility for implementing this authorization, would have to be possessed of the political will to exercise it. The Federal government would also have to make available funds to pay for condemned land. These contingencies introduce a high degree of unreliability.

In light of these considerations, if the condemnation power is to be used as an enforcement tool, it should be made mandatory under clearly specified, and limited, circumstances and not left to the discretion of the Forest Supervisor or District Ranger. Further, the Secretary should be given power to enjoin potentially harmful land uses that are inconsistent with the Land Use Plan, pending condemnation, before any harm is done.

However, it is our preference that a less threatening, more effective enforcement tool be fashioned. Consideration should be given to requiring the Secretary's concurrence to any amendments to the Land Use Plan with instructions not to allow weakening amendments that would harm the national interest. Perhaps a way can also be found to encourage citizen lawsuits to enforce implementation of the Plan and to challenge inconsistent permits. This would lessen, if not remove the need for the Secretary to exercise the condemnation power.

4. Management Advisory Team. We recommend that a management advisory team be established similar in composition and function to the one called for in Section 6 of S 2159. The Secretary would be authorized to appoint the following members:

1. One from the U. S. Forest Service,
2. One from California Department of Parks,
3. One from the California Department of Transportation,
4. One from the California Coastal Commission,
5. One designation by the Monterey County Board of Supervisors, and
6. Two at large members.

The duties of this Management Team would be to (1) develop a unified management plan, (2) coordinate all management plans of separate agencies in the scenic area, (3) monitor implementation of Big Sur Coast Land Use Plan and (4) advise the Secretary and County on enforcement of the Land Use Plan.

5. Unified Management Plan. A unified management plan is needed for the Big Sur Coast to assure consistent land use for private and public lands at all levels of government.

6. Funding. Funds are needed to acquire interests in land, particularly in the Critical Viewshed. Although voluntary private donations may be sufficient to meet this need, Federal backup from the Land and Water Conservation Fund should be provided. Voluntary donations do not provide secure means for meeting what may be mandatory obligations. Compensation may be mandatory in the sense that it may provide the only means to prevent new development in the Critical Viewshed.

Funds are also needed to support the Management Team.

7. Definition of the Big Sur Coast Scenic Area. The Big Sur National Forest Scenic Area should be coextensive with the Monterey County Big Sur Coast Planning District as depicted on the attached map.

In summary, we urge Congress not to turn its back on the Big Sur Coast. Although much work is left to be done on this legislation, it addresses several irreducible needs for Congressional attention. The most important of these are: (1) a strong declaration of national policy, (2) action on Pico Blanco, (3) means to assure enforcement of the Big Sur Coast Land Use Plan, (4) formation of a management advisory team and a unified management plan, and (5) funding.

In conclusion I would like to note that the Big Sur community, particularly its leadership, has changed considerably since Congress last considered Big Sur legislation in 1980. Both Ansel Adams and Nathaniel Owings died in the intervening years. Their leadership and vision were essential elements in protecting the coast for more than two decades.

Together they provided a bulwark against erosion of political support for such protection and inspired citizen action both in Monterey County and throughout California and the nation. The death of Congressman Phil Burton also alters in very real ways the political landscape for Big Sur.

The mantle of local leadership has now passed to Congressman Leon Panetta. We respectfully urge this Committee and the Senate to work closely with him so that something useful may be accomplished.

ATTACHMENT

PROPOSED LANGUAGE GOVERNING FEDERAL MINING CLAIMS IN THE SCENIC AREA

Section 5 (f)

(1) Subject to valid existing rights, ~~federally owned~~ - federal lands and interests therein within the Scenic Area are withdrawn from entry, or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

(2) Except for mining conducted pursuant to a valid Plan of Operations no mining shall be instituted on any existing claims until the claims have been determined to be valid existing rights protected by Subsection (f)(1) as of the date of enactment of this Act. Holders of existing claims must institute proceedings under Interior Department contest procedures to determine the validity of their claims within a year of the date of enactment of this Act. Failure to institute proceedings within a year renders the claim invalid. Once an existing Plan of Operations expires it cannot be renewed or extended without a determination of the validity of the claims.

(3) ~~All-judicially-valid-mining-claims-located-on-Federal-lands-within the-Scenic-Area-shall~~ All claims located on Federal lands in the scenic area which are determined to be valid pursuant to proceedings instituted in accordance with Subsection (f)(2), above, shall continue to be subject to Federal, state, and local regulation allowable under existing law, including such reasonable regulations as the Secretary may prescribe to

assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural and other resources of the Scenic Area. ~~and-any-patent-which-may-be-issued-after-the-date-of enactment-of-this-Act-shall-convey-title-only-to-the-minerals-together-with the-rights-to-use-the-surface-of-lands-for-mining-purposes-subject-to-such reasonable-regulations~~.

(4) Any patent which may be issued after the date of enactment of this Act shall be subject to full state and local regulation and, in addition, to any Federal legislation necessary to accomplish the purpose of this Act.

(5) Within two years of the date of enactment of this Act the Secretary shall submit to Congress recommendations as to whether any claims determined to be valid pursuant to Subsections (f)(2), above, should be acquired by the United States including the estimated acquisition costs of such claims and a discussion of the environmental consequences of the extraction of minerals from these lands.

STATUS REPORT ON LAND
USE ON THE BIG SUR COAST

A BIG SUR FOUNDATION REPORT

by

Saunders C. Hillyer

June 1985

TABLE OF CONTENTS

Page

I. OVERVIEW 1

II. ANTICIPATED PROBLEMS 7

A. LACK OF COORDINATION AMONG GOVERNMENT AGENCIES 7

1. Federal Actions 8

Pico Blanco 8

Outer Continental Shelf oil leasing . 9

Oil and gas leasing on the Los Padres National Forest 10

Hard rock mining on the Los Padres National Forest 11

Point Sur Naval Facility 11

2. State Actions

California Department of Transportation maintenance of Highway 1 11

Logging 12

State Park development plans 13

B. NEED FOR ACQUISITION FUNDS 14

1. Funds to Protect Open Space, Grazing Land and Highly Scenic Areas, Usually Through Less Than Fee Acquisition 15

Pico Blanco 16

Critical Viewshed 16

Large landholdings 17

2. Funds to Protect Sensitive Ecological Areas 17

    - 3. Funds to Provide for Public Recreation .. 17
  - C. LONG RANGE PROBLEMS TO PROVIDE FOR AND CONTROL PUBLIC USE OF THE COAST 18
    - 1. Coordinated State Park Development Plans 19
    - 2. Highway 1 Traffic Capacity Analysis 21
- III. POLITICAL POSTSCRIPT 23
  - A. INCORPORATION 23
  - B. NATIONAL SEASHORE 23
  - C. H.R. 7380, THE PANETTA BILL 24
  - D. LEGISLATIVE AFTERMATH 25
  - E. THE BIG SUR COAST LOCAL COASTAL PROGRAM 26
  - F. THE COMPOSITION OF THE BIG SUR COMMUNITY 27
  - BIG SUR FOUNDATION STATEMENT OF GOALS AND POLICIES

This report focuses on protection of the Big Sur Coast and and on the people who use it. It takes a relatively long view, looking back over the last decade and projecting roughly that far into the future and, although it identifies and discusses a number of immediate problems, it is not crisis oriented. Rather, it strives to place these problems into a coherent analytical framework and into perspective with recent events in order to help identify the most promising approaches to solving them.

A copy of the Big Sur Foundation's Statement of Goals and Policies is attached as an appendix.

PART I

OVERVIEW

Protection of the Big Sur Coast poses a dilemma. On the one hand Big Sur is recognized as a national treasure that, if not of equal value with Yosemite, Yellowstone and other extraordinary units of our National Park System, is close to it. On the other, the dominant focus for protecting Big Sur has been to avoid the type of exclusive Federal management generally associated with National Parks and to rely on the existing private community and network of public agencies to achieve this end.

This discrepancy has given rise to severe strains. The protection that has been given to Big Sur by the local community and existing agencies is outstanding in terms of their capabilities; yet, it is barely adequate in terms of the extraordinary level of protection that is appropriate to Big Sur and the threats looming over the coast make the future very uncertain. At the same time, the burdens that have already been imposed on local landowners and residents are great and have led to charges that the local community is being asked to subsidize the enjoyment of the coast by the millions of people who visit it each year from across the nation and around the world.

The pressures on the local community are reflected in highway congestion, trespass, litter, increased fire hazards and water pollution and, indirectly, in tight restrictions on land use imposed to protect the aesthetic and ecological resources. Although strict regulation is common throughout the California coastal zone, that which has been applied to Big Sur is unprecedented in its stringency. The resulting tensions have been held at bay in recent years but have not been abated. If anything, they have been drawn into increasingly sharp focus by the intensified public involvement in land use planning.

The eight years since enactment of the California Coastal Act in 1976 have been tumultuous. At the same time the community tackled the gargantuan task of developing the Land Use Plan mandated by the Coastal Act, separate proposals were made to incorporate fifty miles of shoreline into a township and to enact Federal legislation to protect the entire Big Sur Coast.

During the gestation period for the Land Use Plan, pressures on the coast have been eased by two factors. First, strategic land acquisitions have been made that have protected more than 15,000 acres of land while providing compensation to landowners.* Second, most destructive development on private and public land has been avoided because of temporary moratoria imposed by the California Coastal Commission on all development in view of Highway 1 and on any new land subdivisions that would increase residential capacity any place on the Big Sur Coast. These moratoria have been countenanced by the courts as interim measures to preserve the status quo pending certification of the

---

*These acquisitions include the Landels-Hill State Ecological Reserve (Big Creek), the addition to it for most practical purposes of the Potter Ranch, the acquisition by the California Department of Parks and Recreation of East Molera Park and the Garrapata/Doud Ranch and the transfer of the Pt. Sur Coast Guard Station to the California State Parks System.

Local Coastal Program and they will be abolished as soon as it is certified.

Finally, in 1984 after eight years of intense public participation and several bounce-backs between Monterey County and the Regional and State Coastal Commissions, a Big Sur Coast Land Use Plan was adopted by Monterey County that met all Coastal Commission conditions for certification. This report focuses on the policies of this 1984 Land Use Plan even though the Monterey County Board of Supervisors recently withdrew it from consideration for certification by the Coastal Commission and announced a new round of public hearings on it. Except for the specific provisions concerning the El Sur Ranch, the 1984 Plan is thought to give the best available indication of the land use policies that will apply to the coast for the foreseeable future.

Commenting on this Land Use Plan in 1984, the San Francisco Chronicle observed that the "coastline of Big Sur has long been a testing ground for varying preservation philosophies" and continued to editorialize that the Plan "strikes us as a constructive compromise that should do much to preserve the special quality of an extraordinary area."

The Chronicle's support is well founded. The Land Use Plan is the culmination of twenty-five years of planning and debate and embodies a vision of the Big Sur Coast that has evolved steadily over this period.* This vision is to keep the Big Sur

---

*Important steps in the evolution of this vision include the 1962 Master Plan, the 1977 Hall, Goodhue and Haisly proposed master plan, the Big Sur Coast Citizens Advisory Committee's 1979 Statement of Philosophy and Goals and the fifteen background reports developed by the Monterey County Planning Department from 1978-1980.

Coast as it is by protecting its wild-rural character, scenic magnificence and ecological integrity. It accepts the pluralism of the community and seeks to accommodate the legitimate, but often conflicting, interests of landowners and residents, the visiting public and government agencies consistent with the paramount commitment to protecting the coast's extraordinary natural resources.

However, like all land use plans, that for Big Sur is primarily a policy document. No matter how valid its vision for the future, its policies will not be self-executing. It is apparent that the underlying problems confronting the Big Sur Coast arising from the fundamental dilemma referred to above have not gone away. Once the interim constraints on development are lifted following certification of the Local Coastal Program, the underlying problems will emerge with full, and perhaps unprecedented, force.

It is the purpose of this paper to anticipate the most serious problems confronting implementation of the Land Use Plan so that solutions to them can be found before they degenerate into crises. As the real pressures on the coast become ever more broadly perceived, the time may arrive for a pragmatic consideration of the limited, but real, options available to landowner, developer, environmentalist and government official alike.

If the present momentum is not sustained and if solutions are not found to the problems identified in this paper, the Big Sur Coast is likely to gravitate in either of two directions:

(1) its magnificence and ecological integrity may be sacrificed through a combination of piecemeal development and inundation by the visiting public, or (2) failure to protect the coast could trigger radical Federal intervention as the only means to prevent its further deterioration.

PART II

ANTICIPATED PROBLEMS

The extraordinary problems that are the focus of this report divide into three overlapping categories: (1) Those caused by a lack of coordination or conflicts among government agencies and gaps in the regulatory network; (2) those that can be solved by money which is often needed to acquire interests in land and to compensate landowners and (3) those that call for initiative in managing public use of the coast and therefore exceed the capability of a regulatory program. To the extent public funds are used for the second and third categories they overlap with the first. The question becomes, "which level of government pays?"*

A. LACK OF COORDINATION AMONG GOVERNMENT AGENCIES

These problems result from the number of participating agencies and, more importantly, the division of responsibility among local, state and Federal authorities. Often they arise when a state or Federal agency applies general policies that are not sufficiently responsive to Big Sur's special needs or do not conform to the Land Use Plan. Legal constraints hinder the ability of Monterey County and the state Coastal Commission to compel compliance in these instances: The U.S. Constitution restricts state power to regulate Federally owned land and the State of California has exempted select state actions from the permit requirements of the California Coastal Act of 1976.

---

*Issues that are of purely local import, such as many concerning public health and safety, police protection or routine land use issues in existing residential areas, are not addressed. It is assumed these will continue to be dealt with as they have been in the past and as they are in other unincorporated areas of Monterey County. The focus is further restricted to issues that cannot be resolved by reliance on the state's regulatory power, alone.

1. Federal Actions

Pico Blanco. Granite Rock expanded its surface mining operations at Pico Blanco in 1980 by opening a quarry. Efforts by the California Coastal Commission and Monterey County to regulate its operations within the Los Padres National Forest have given rise to litigation that is now on appeal to the Ninth Circuit Court of Appeals. Granite Rock represents that it has temporarily suspended operations pending the outcome of this appeal.

In this litigation the State does not assert the right to prohibit mining on national forest land as a matter of policy but only to regulate it to protect the environment. Granite Rock challenges the state's power to do so. The outcome should determine both whether the state can regulate in this instance and, if it can, the limits on its power to do so.

California won in Federal District Court. The Federal government has filed a brief in the appeal before the Ninth Circuit in support of Granite Rock's position and eight western states have filed a joint brief in support of California.

Monterey County has also demanded that Granite Rock submit a

Reclamation Plan as required by County Ordinance but Granite Rock has refused to do so or to reclaim already disturbed surface areas. Further, the Big Sur Foundation, Monterey County, the Natural Resources Defense Council and the Wilderness Society have filed a lawsuit against the U.S. Forest Service for not preparing an EIS at the time it approved Granite Rock's operating plan.

In view of the limits on the power of the state to prohibit surface mining as a matter of policy, the Pico Blanco mining claims should be withdrawn from operation of Federal mining laws so that this land may be dedicated to a more appropriate use, e.g., recreation. Granite Rock would then be entitled to compensation by the Federal government its claims have been perfected. Both the President and Congress are empowered to make such a withdrawal, with the President having delegated his authority to the Secretary of the Interior. The Secretary of the Interior can do so either on his own initiative or in response to a recommendation from the U.S. Forest Service.

Outer Continental Shelf oil leasing. The Big Sur Coast is not immune to the risk of oil drilling on the Outer Continental Shelf (OCS). It is covered by proposed lease sales. No action is now being taken on this proposed sale because of a Congressionally imposed moratorium on expenditure of public funds for "processing, bidding or exploring" in this area.

The moratoria on processing Lease Sale 91 have been imposed by Congress one year at a time. The present one expires in late 1985. It should not be taken for granted that Congress will renew it thereafter.

The chief interest of the oil industry appears to be in the Santa Maria Basin, off the San Luis Obispo coast, and the Santa Cruz Basin which extends from Santa Cruz north to Eureka. The OCS off the Big Sur Coast has low oil estimates and the industry's interest is further dampened by the 2,400 foot depth of the OCS three miles off shore where Federal jurisdiction commences. With the present state of the art for off-shore drilling, the industry prefers not to drill at depths greater than 2,000 feet.

Nevertheless, the Department of the Interior has thus far refused to omit the OCS off the Big Sur Coast from this proposed lease sale in spite of repeated Congressional requests to do so.

In the event that this lease sale is activated, the State of California may have only limited regulatory power. The U.S. Supreme Court recently ruled that the Coastal Zone Management Act of 1972 does not give the California Coastal Commission consistency jurisdiction over Federal lease sales on the Outer Continental Shelf. Therefore, opposition to OCS lease sales must continue to be focused on Washington, where both Congress and the executive have power to cancel them.

Oil and gas leasing on the Los Padres National Forest. The Los Padres National Forest recently recommended that the Bureau of Land Management deny applications for oil and gas leases in the coastal zone of the southern Big Sur Coast and it is anticipated that BLM will follow this recommendation. Therefore, such leasing does not appear to be an immediate problem. However, withdrawal of all the national forest land in the coastal zone from operation of the mineral leasing laws would reinforce this administrative decision and avoid the risk that it might be overruled by BLM or later reversed by the Forest Service.

Hard rock mining on the Los Padres National Forest. Except for Pico Blanco, this does not appear to be an immediate threat in that no other large scale mining operations are known to be planned for the Big Sur Coast. Nevertheless, withdrawal of all national forest lands from operation of the mining laws would prevent new claims from being established and is a valuable safety precaution.

Point Sur Naval Facility. Provision should be made for its future status in the event it is surplussed by the Navy.

2. State Actions

California Department of Transportation maintenance of Highway 1. This is a pressing problem. The California Department of Transportation's method of repairing Highway 1 following landslides years ago has received broad criticism. In what turned out to be the largest earth moving operation in its history, Cal Trans filed back mountain slopes to a more gentle angle, thus creating mammoth scars that from the air or sea are more visible landmarks than Pt. Sur.

In so doing Cal Trans departed from its historical approach to highway repairs in Big Sur which had been to minimize the alteration of landforms in order to perpetuate the highway as a scenic corridor. The traditional approach accepted the risk that future slides would occasionally occur, as they have ever since the highway opened, as an unavoidable cost of maintaining a scenic highway in such precipitous, unstable terrain. Cal Tran's recent departure from tradition may be the bellwether of a policy reversal in which the topography, and therefore the character, of the Big Sur Coast are to be radically transformed to meet the needs of more secure highway construction.

Highway maintenance and repair have traditionally been exempted from Coastal Act permit requirements. While this may make sense for most routine repairs, it does not make sense for large scale or extraordinary repairs such as those made by Cal Trans two years ago. Also, even the lesser decisions Cal Trans makes -- to widen a lane, put in a passing lane or a turnout -- have significant effects on the Highway and cumulatively may alter its character. At present Cal Trans operations do not appear to be adequately coordinated with those of other agencies or the policies of the Big Sur Coast Land Use Plan. Its internal policies that may be suitable elsewhere in the state do not appear to be appropriate to the Big Sur Coast.

Logging. State legislation enacted two years ago exempts timber harvest plans from county regulation. At least three proposals for logging redwoods on the Big Sur Coast have been approved by the State Forestry Board since that legislative exemption took effect that would not formerly have won approval from the County and Coastal Commission.

The review criteria applied by the State Forestry Board to timber harvest plans do not fit local needs. The California legislature should therefore restore Monterey County and state Coastal Commission regulatory authority over logging operations on the Big Sur Coast. Although a bill has been introduced in Sacramento to do so for the Big Sur Coast, there is no sign that positive action will be taken on them.

State Park development plans. With approximately 8,000 acres of practically undeveloped land on the Big Sur Coast -- Garrapata Beach and Molera Park -- in addition to the intensely developed Pfeiffer Big Sur State Park, the California Department of Parks and Recreation is a sleeping giant. Future development plans for units of the State Park System in this planning district will be subject to the coastal development permit process, which should assure a fair degree of conformity to the Big Sur Coast Land Use Plan.

However, in its statewide administration of the State Parks System the California Department of Parks and Recreation has historically manifested a bias towards intensive recreational development. This bias surfaced on the Big Sur Coast in the 1970's when the Department proposed intensive development plans for Molera Park. While this proposal was under consideration, campers in the park started a wildfire that spread to burn thousands of acres in the Big Sur Valley and the California Conservation Corps established a camp within the park, the structures of which were visible from Highway 1.

When the California Coastal Act of 1976 became law and the Big Sur Coast LCP was launched as a pilot project, the community united in demanding that the same land use policies be applied to public lands that apply to private lands, including policies pertaining to density of development and protection of the view from Highway 1, and that no new lands be acquired or opened for public use until they could be managed to avoid wildfires. In the late 1970's the California Conservation Corps' camp was removed from Molera Park and the Department of Parks and Recreation shelved its development plan.

Assuming that future development plans for State Parks conform to the letter and spirit of the Land Use Plan, the Department of Parks and Recreation's role in managing off-highway recreational use of the coast is potentially very constructive.

B. NEED FOR ACQUISITION FUNDS

The Land Use Plan's prohibition on new development in the Critical Viewshed and its limitations on residential and hotel density press the limits on how far the County can downzone without compensating landowners. The LUP allows a potential of 1,500 new residences or hotel rooms on the 70 mile long Big Sur Coast.* Although this may not sound like much, it would roughly triple the existing density and would allow subdivision of the remaining large private landholdings. Yet the constitutional prohibition on taking property without compensation, in addition to considerations of equity, may preclude further reductions in this potential buildout unless landowners are compensated for retiring some of it.

---

* This includes 1,000-1,100 single family residences (one for each of the estimated 800 existing underdeveloped parcels, 100-200 for new parcels created through subdivisions and 100 allowed as a density bonus to owners of land in the critical viewshed who transfer their development potential outside the critical viewshed); 300 hotel rooms; 200-300 employee housing units and fifty caretaker houses.

Both private non-profit organizations and the State of California have made significant acquisitions on the Big Sur Coast over the last eight years. But the pace at which they did so appears leisurely in comparison to the immediate crunch facing the coast.

This pressure arises from the imminent certification of the Land Use Plan and the recent exemption of timber harvest plans from local regulation. The former will terminate the moratoria on land subdivisions and on new development in the Critical Viewshed, giving rise to demands by landowners for compensation in return for not developing or subdividing.

It is important to maintain the present momentum by having sufficient funds available to handle these needs as they arise, thereby avoiding crises, minimizing the hardships on landowners caused by delays and uncertainties and averting precedent setting breakdowns in the implementation of the Land Use Plan's Critical Viewshed policy.

1. Funds To Protect Open Space, Grazing Land And Highly Scenic Areas, Usually Through Less Than Fee Acquisition*

Pico Blanco. Funds may be needed to purchase Granite Rock's limestone deposits both on lands it owns in fee title and on national forest mining claims.

Critical viewshed. The Transfer of Density Credit System is designed to operate by means of two party market transactions between a seller who is the owner of a viewshed parcel, or donor site in TDC parlance, and a purchaser who owns or acquires a receiver site to which development potential can be transferred. Nevertheless, the intervention of a funded third party is needed to facilitate the system's operation by purchasing either viewshed parcels or receiver sites. This would assure the existence of a market for viewshed parcels or development potential derived from them within a reasonable time from when they are first put on the market, thereby easing potential hardships on owners.

Monterey County has requested the California Coastal Conservancy to give the County millions of dollars from Prop. 18 bond sales to purchase viewshed parcels. Any funds coming from the Conservancy will probably be used exclusively to complete the transfer of development out of the critical viewshed using the two-to-one density bonus provided for in the TDC system. Thus, its money will not be used to reduce density of buildout on the Big Sur Coast but only to relocate it. The Big Sur Land Trust is looking for funds to use for retiring development rights in the critical viewshed in order to achieve the dual goals of viewshed protection and density reduction. As of this writing, neither Monterey County nor the Big Sur Land Trust have raised money for Critical Viewshed acquisitions.

---

* Less than fee acquisition is used broadly to refer to transactions that leave ownership of residual residential or agricultural rights in the hands of private owners. This could take the form of a direct acquisition of development rights or scenic easements or fee title acquisition coupled with a lease or sale-back of residual rights to a private owner. In the case of small undeveloped parcels in the critical viewshed, in which there may be no significant residual rights, straight fee title acquisition or a transfer of development potential outside the critical viewshed are the only viable alternatives.

Large landholdings. Purchase development rights to provide compensation to landowners, to avoid subdivision and to reduce density of buildout. (Hill, Doud, Funt, Hathaway)

2. Funds To Protect Sensitive Ecological Areas

The most significant stands of unprotected redwoods are located in Anderson Canyon and in the North Fork of the Little Sur River. Smaller stands are found in many Big Sur canyons. The Big Sur Land Trust is currently trying to raise funds to acquire old growth redwoods in Palo Colorado Canyon and south coast.

3. Funds To Provide For Public Recreation

Except for the proposed acquisition by the California Department of Parks and Recreation of the Little Sur River corridor and beach from the river mouth to Pt. Sur, it does not now appear that further acquisition is needed for recreational use.

C. LONG RANGE PROJECTS TO PROVIDE FOR AND CONTROL PUBLIC USE OF THE COAST

The Big Sur Coast is a national tourist attraction that is bracketed by two others--San Simeon to the south and the Monterey Peninsula to the north--each of which is actively promoting increased tourism. In addition to the scenic drive, restaurants, turnouts and limited hotel facilities, the Big Sur Coast provides hiking, beach and camping experiences. Several large units of the California State Park System in addition to the Los Padres National Forest provide the opportunity for such low intensity recreational use. This rustic experience in a wild-rural setting is a unique contribution the Big Sur Coast has to offer recreational users of the California coast.*

An estimated three million people travel Highway 1 each year, over 95% non-resident visitors. Most of this is pass through traffic that, except for short stops at restaurants or turnouts, does not stay overnight on the Big Sur Coast. Nevertheless, this huge quantity of traffic generates significant pressures on the local community living close to the highway.

---

*The state Coastal Commission recently approved a proposal by the Hearst Ranch to construct 650 new hotel rooms and convention facilities near San Simeon and thousands of new hotel rooms are planned or already under construction on the Monterey Peninsula. The Big Sur Coast Land Use Plan strives to steer such commercial recreation facilities away from the Big Sur Coast. The Land Use Plan sets a ceiling of 300 new hotel rooms for the full 70 miles of the Big Sur Coast which, when added to the existing 168 rooms, totals less than 500. Thus, most tourists wishing use of such facilities will be relegated to each end of the coast.

The impacts include traffic congestion for much of the year, trespass, dangerous and unsightly roadside parking (River Inn, Garrapata Beach) and overnight RV and car camping resulting in both blocked views and refuse disposal. Some backcountry areas already open to public access have periodically been overused, such as the trail from Pfeiffer Big Sur State Park to the Sykes Hot Springs. As more units of the state park system are developed and opened to public access, the pressure on off-highway resources will increase, necessitating increased management.

These are considered long range problems, not because they lack importance today, but because their solution may require a comparatively long lead time to accommodate the necessary planning and public involvement. In this sense, they are second generation problems. Most first generation problems, consisting of those identified in Subsections A and B, above, have already received lengthy public attention, usually through the planning process that culminated in approval of the Land Use Plan in 1984.

These long range problems require prospective action, whether to provide facilities for public use, regulate traffic or manage use of state park or national forest land and therefore call for solutions that go beyond the regulatory mission of the Local Coastal Program.

1. Coordinated State Park Development Plans

Although Monterey County has coastal development permit jurisdiction over state park development plans, an opportunity may exist for long range planning that goes beyond what can be accomplished by review of development plans for individual units of the State Park System.

The California Department of Parks and Recreation has units at each end of the Big Sur Coast - Pt. Lobos and Monastery Beach in the north and San Simeon in the south. Along the Big Sur Coast, itself, its units include approximately 10,000 acres and provide linkage between Highway 1 and the Los Padres National Forest at Garrapata Beach, Molera Park and Pfeiffer Big Sur State Park. At all of these, except Pfieffer, access is also provided from the highway to the ocean. Also, the Department of Parks and Recreation is planning to establish offices in a common facility with the U.S. Forest Service and California Department of Transportation in the Big Sur Valley, thus increasing its ability to coordinate with these other two key agencies.

These holdings place the Department of Parks and Recreation in a good strategic position for playing a major role in the management of recreational use on the coast, particularly in the north where most of its units are located. For example, it may be able to provide information to recreationalists at either end of the coast as well as assume the burden of managing most off-highway recreation north of Limekiln Creek where the highway is enveloped on both sides by non-federal land. The U.S. Forest Service would continue to play a key role for back country management north of Limekiln Creek and for management of more intense recreation from there south to the San Luis Obispo County line where it owns most of the land on both sides of the highway.

2. Highway 1 Traffic Capacity Analysis

The capacity of Highway 1 is the key to most planning issues on the Big Sur Coast yet little has been done since the late 1970's to deal with highway related problems. This reflects the complexity of such issues, a lack of data and a lack of consensus in the community about what needs to be done. Also many highway issues are politically difficult because they affect so many vital interests from the Monterey Peninsula to San Simeon. It is therefore proposed that a comprehensive program be undertaken to develop politically palatable solutions to these problems. This program would identify the problems through data collection and analysis, propose alternative solutions and involve the various interest groups in formulating the final solutions. Whether highway traffic needs to be regulated and, if so, how and by whom would emerge out of these studies.

PART III

POLITICAL POSTSCRIPT

A. INCORPORATION

In the late 1970's a petition was circulated to enlist support for incorporation of a town of Big Sur that would include 50 miles of coast and would be supported primarily from taxes levied on hotels and restaurants, implying a financial dependency on expanded commercial tourist facilities. The petition sponsors wanted to exempt the proposed town from Monterey County's land use planning authority. However, due to a lack of local support formal incorporation proceedings were never undertaken and, since local sentiment has subsequently turned even more strongly against expanding hotel facilities, it is not anticipated that this proposal will be resurrected in the foreseeable future.

B. NATIONAL SEASHORE

Early proposals for Federal legislation in 1978 and 1979 were for a national seashore to be administered by the National Park Service. They emphasized fee title acquisition of all undeveloped private land on the Big Sur Coast--by condemnation, if necessary--failed to recognize the potential under the California Coastal Act for Monterey County and the California Coastal Commission to regulate land use in the coastal zone and, generally, assumed the need to replace the existing network of government agencies with heavy, if not exclusive, reliance on the National Park Service to manage and regulate both public an private use of the coast.

The proposals for incorporation and the national seashore, although dissimilar in most respects and made by opposing political camps, shared a fundamental characteristic. Both were radical in the sense that they proposed to uproot the existing network of government agencies and to substitute something new in their place.

No Big Sur bill for a national seashore was ever introduced in Congress after its initial proposal drew widespread opposition. It became clear that a "cookie cutter" approach that would impose a Cape Cod National Seashore model, or any other existing model, was not acceptable. If Federal legislation were to be enacted, it would have to be specifically tailored to meet the unmet needs of the Big Sur Coast.

C. H.R. 7380, THE PANETTA BILL

As the legislative controversy developed in 1980, Congressman Panetta introduced a compromise bill, H.R. 7380, that addressed many of the problems identified in this paper as still being unsolved, today. H.R. 7380 was non-radical in the sense that it accepted the existing network of government agencies and proposed means to reinforce their effectiveness. It also provided for a significant sum of money for less than fee title acquisition of interests in land from willing sellers.

H.R. 7380 cleared the House on a two-thirds vote but failed in the Senate. During the course of its consideration by Congress, a consensus emerged in Washington that the Big Sur Coast was an aesthetic, ecological and recreational resource of national significance. This was not challenged by anyone in Congress or by any of those lobbying against Big Sur legislation. There was, however, off-setting doubt at that time that Federal legislation was needed in view of the then unknown potential of the Big Sur Coast Local Coastal Program to protect the coast.

D. LEGISLATIVE AFTERMATH

The legislative activity from 1978-1980 polarized the community. In some people's minds a stigma, characterized by the slogan "Federalization," was associated with any proposal for Federal legislation, without serious regard to its content or its potential benefits to the community.

The emotionalism surrounding this issue distorted perception of the real options available for protecting the coast. Opponents of legislation claimed that any special Federal designation for the Big Sur Coast would significantly increase the number of visitors. This is a proposition of doubtful validity since the coast is already well known and is already inundated with tourists.

Similarly, the Federal government was portrayed as the exclusive source of potential government intrusion, whereas the real problem is the non-existence of means to coordinate local, state and Federal agencies already entrenched on the coast. Ironically, Congressional action is peculiarly necessary to control Federal agencies and to compel them to conform their actions to the needs of the Big Sur Coast.

All Federal land acquisition funds were opposed by some even if their use would have been restricted to purchase of less than fee title from willing sellers on grounds that such funds would extend Federal control over the area. The effect of this ideological extremism was to leave landowners subject to the full weight of strong state land use regulation while shutting them off from a source of funds that would at once have eased their burdens and made the land use regulation more effective.

E. THE BIG SUR COAST LOCAL COASTAL PROGRAM

The Land Use Plan appeared to rest on a solid political foundation at the end of 1984. For the past five years almost all votes on it by the Monterey County Board of Supervisors had been unanimous and it was not anticipated that the newly elected Supervisors from the Fourth and Fifth Districts would alter the County's basic direction in this regard.

Appearances today have not changed dramatically but an element of greater uncertainty has been introduced. The recent rejection of the El Sur Ranch development agreement has caused several short term effects. The pending acquisitions along the Little Sur River and of the beach at the mouth of the river have fallen through; the $2 million set aside by the California Coastal Conservancy to help support the Transfer of Development

Credit System have been lost, at least for this fiscal year; and certification of the Land Use Plan has been postponed indefinitely so that a new round of public hearings can be held on it by the Monterey County Board of Supervisors. These developments coincide with an apparent weakening of the California Coastal Commission caused by budget cuts and turnover in staff and Commissioners.

The result is that much less is securely nailed down than would have been anticipated a few months ago and the local and state momentum to protect the coast established over the past several years has been slowed.

F. THE COMPOSITION OF THE BIG SUR COMMUNITY

Much of the public debate and acrimony in the last eight years has focused not on what should happen to the coast or on identifying and solving its problems but on who should be entitled to participate in resolving these issues and on who should have control. Several truths about the Big Sur community have emerged out of this period that, if generally accepted, might in the future focus the public discussion more constructively.

First, the community of people concerned with the Big Sur Coast is pluralistic. No one and no single organization or cluster of organizations speaks for Big Sur. Neither the faction identified with the Coastal Property Owners Association nor the Big Sur Land Trust or Big Sur Foundation, Dialog, the Citizens

Advisory Committee, the fire brigades or the Big Sur Historical Society represent Big Sur. Also, the coast is comprised of several distinct geographic communities. People in Palo Colorado Canyon tend to see things differently than those who live in the Big Sur Valley and both are far removed from South Coast.

The California Department of Parks and Recreation and the U.S. Forest Service are the largest landowners, followed by the El Sur Ranch and University of California at Santa Cruz. Much private land belongs to absentee owners and many landowners, absentee and resident alike, are represented by Monterey and Salinas attorneys. A Watsonville company, Granite Rock, is exploiting limestone deposits on Pico Blanco and if the Outer Continental Shelf is drilled for oil it will be by non-local interests.

Land use policy for the Big Sur Coast has also been influenced by local and national environmental organizations. The Ventana Chapter of the Sierra Club bore primary responsibility for designation of the Ventana Wilderness Area. The Big Sur Foundation and the Natural Resources Defense Council played important roles in certification of the Land Use Plan and the Wilderness Society sponsored legislation in 1980 to create a Big Sur National Scenic Area. The most effective voices to protect wildlife habitat have been the Friends of the Sea Otter, the California Native Plant Society and the Ventana Chapter of the Sierra Club.

Very importantly, the gateways to the Big Sur Coast are located to its north and south and more than 95% of the traffic along highway 1 consists of tourists coming from the Monterey Peninsula or San Simeon. It will be recalled that the strongest pressure to reopen Highway 1 as quickly as possible after the 1982 slides came from the Monterey Peninsula tourist industry.

Major decisions affecting the coast are made by government agencies with offices located in several parts of northern California. First, to name only the most prominent, is the Monterey County government concentrated in Salinas, then the state Coastal Commission in Santa Cruz and San Francisco, the major landowners -- the Forest Service and California Department of Parks and Recreation -- with decisionmakers located in Big Sur, Monterey, King City, Santa Barbara and Sacramento, the California Coastal Conservancy in Oakland and, last, but far from least, the California Department of Transportation with its district office in San Luis Obispo.

This profusion of voices divides into three overlapping groups. (1) The Big Sur Coast is a local community that, with allowances for its remoteness and attenuated extension over seventy miles of coast, functions just about the same as other communities of similar size. People earn livings, raise children, buy groceries, join the fire brigade, etc.* (2) It is a national tourist attraction that already draws millions of visitors each year. And (3) it is subject to the decision making powers of government agencies representing local, state and national constituencies.

---

*According to the Land Use Plan, the 1976 mid-decade census recorded approximately 800 housing units on the Big Sur Cost of which about 600 were permanent single family dwellings. A transportation study revealed 423 persons employed in the area, one third in eating, drinking and lodging places and one third in government (military, Forest Service, State Parks, etc.) As of January 1985, 954 registered voters lived on the Big Sur Coast.

The interaction among these three elements has been an underlying source of friction. The first step towards ameliorating this friction would be for each element to accept the existence and legitimacy of the others and the likelihood they will continue to be prominent features of the local scene for as far as it is possible to see into the future. The legislative controversy in 1978-1980 obscured this reality and thereby forestalled constructive attempts to define boundaries that would protect the legitimate interests of each element from encroachment by the others.

The following general precepts may provide a starting point for defining those boundaries. (1) The existence of the local community should be assured and it should be protected from abuse by the visiting public and from the financial burden of subsidizing public enjoyment of the coast. (2) The Big Sur Coast should be accepted for what it is -- a national tourist attraction -- and attention should be focused on how to provide for and control this use. (3) The parochial mission of each government agency must be tempered to meet the special needs of the Big Sur Coast and to conform to the policies of the Land Use Plan. (4) The actions of all three segments of the community must be consistent with the paramount goal of protecting the ecological and aesthetic resources of the Big Sur Coast.

THE
BIG SUR
FOUNDATION

Point Sur storm By Ansel Adams

BOARD OF TRUSTEES
WILL SHAW
President
ANSEL ADAMS
Vice President
EDWARD D. LANDELS
Vice President
JULIE PACKARD
Secretary Treasurer
ROBERT E. ALEXANDER
MYRON E. ETIENNE, JR
FREDRICK S. FARR
VIRGINIA B. MUDD
COLETTE M. SEIPLE
KEN WRIGHT

SAUNDERS C. HILLYER
Executive Director
DAVID H. VENA
LATHAM & WATKINS
Legal Counsel

225A CANNERY ROW
MONTEREY CA 93940
(408) 649-3013

STATEMENT OF GOALS AND POLICIES

The Big Sur Coast is a unique natural resource. Its ocean and mountain majesty are unsurpassed anywhere in the world. Highway 1 may well be the nation's most scenic roadway. The Big Sur way of life is special, reflecting the values both of the pioneers who settled this coastal wilderness and the creative people who contributed to its renown. Today, the grandeur and lifestyle of the Big Sur Coast are threatened by increasing pressures for land use and development.

The Big Sur Foundation was formed in response to these pressures. The Foundation is a private, non-profit coalition of citizens, most with homes, businesses, or other property in the Big Sur area, and all with deep concern for the long term protection of its values.

The Foundation's goal, without precommitment to any solution, is to seek the best possible framework for the future of the Big Sur coast. Its objectives are twofold: (1) to preserve for future generations the natural splendor, historical heritage, and special character of the Big Sur coast; and (2) To support appropriate development, public and private, commensurate with protecting its scenic and natural resources.

Philosophically, the Foundation recognizes that the visual experience of the Big Sur coast is its primary value for most people. Accordingly, in evaluating proposals for the Big Sur coast the Foundation will be a strong advocate for the protection of its scenic beauty.

Geographically, the Foundation defines the Big Sur coast as the area extending from Malpaso Creek on the north to San Simeon, and from the easternmost extent of publicly-owned lands to 12 miles at sea.

Practically, the Foundation functions as a data-gathering, research, and resources center. In this capacity it has already contributed to an unprecedented natural resource inventory of the Big Sur region.

The Foundation is exploring all plans and proposals relating to the Big Sur area, and studying a broad range of innovative management concepts in other parts of the country. It is also consulting with other citizens and organizations, and with agencies at all levels of government. Ultimately, the Foundation will dedicate its staff and resources to the support and implementation of the comprehensive program--whether local, State, Federal, or combination thereof--found to be in the best interests of the land, the people of Big Sur, and the general public.

The specific concerns of the Big Sur Foundation are:

Improving Management of Public and Private Lands. Decisions affecting the Big Sur area are now made by 77 public agencies. Most of these agencies show concern for protecting environmental values, but have different primary goals, objectives and methods. Coordinated, responsive management is essential to maintain the integrity of the Big Sur coast.

Protecting the Area from Overdevelopment. Each year more people are attracted to Big Sur to visit or to live. It is a fragile and finite area. Its wilderness character will be threatened if too much residential or commercial development is allowed, and if public overuse of vulnerable areas is not prevented. The need for limits is already recognized at Point Lobos State Reserve, where public use is curtailed when necessary to protect natural values.

Preserving Human, Historical, and Cultural Values. The character of Big Sur involves a way of life and the people who sustain it--ranchers, artists, craftsmen, and homesteaders whose love of the land transcends rigorous living conditions and limited economic opportunities. The human, historical, and cultural heritage of Big Sur is a resource to be considered in any program for conservation of the land itself, and in any legislation affecting it.

Developing a Comprehensive Program for Scenic Protection. A long-range program sensitive to both public and private interests must be developed to protect the scenic values of the Big Sur coast, and the richness and diversity of its natural resources. The concept should be one that can be supported by local residents and property owners, but at the same time, be responsive to the public interest in scenic and recreation resources and visitor-serving facilities. The completed program should be presented to elected officials and administrative agencies of county, State and Federal governments for implementation. The Foundation proposes the following guidelines for development of a comprehensive program for the Big Sur coast:

--Standards and policies must be tailored to the unique nature of the Big Sur coast.

--Environmental constraints must be respected in an area as rugged yet as fragile as the Big Sur coast. These include water supply and waste disposal; geologic suitability of terrain; protection of watershed, habitats, shoreline, and other environmentally-sensitive areas; and fire and flood hazards.

--The capacity of Highway 1 should be recognized as the major limiting factor in the future of the Big Sur coast.

--Agricultrual uses of the land--ranching, grazing, farming, animal husbandry--should be protected, and other congenial uses encouraged. Any operation that might jeopardize the quality of the environment--logging, mining, quarrying, oil drilling--should be discouraged.

--While resource protection and public recreation are each important objectives, where the two are in conflict, protection of resources should have priority.

Supporting Other Projects. The Foundation will support projects and legislation reflecting its goals and objectives, by public or private agencies. New proposals should not duplicate work already underway, but should seek to harmonize local, State and national interests in the Big Sur region. The foundation will work for funding by governmental, private, and non-profit organizations for purchase of scenic easements or other interests in lands of high environmental value. In all such efforts, the Foundation has the following policy objectives:

--Identifying and protecting historic elements of the Big Sur coast, including structures of special significance, and encouraging a quality of design sensitive to the area and its traditions.

--Seeking more flexible and imaginative means for fair compensation to land holders for preserving open land that might otherwise be developed.

--Balancing the need for public purchase of key lands against the merits of private stewardship as the best means of protecting scenic values and preserving open space.

--Finding means of relieving real estate and inheritance tax pressures that result in the sale or subdivision of land.

The Big Sur Foundation seeks the active support of individuals, organizations, and agencies sharing its goals. All activities of the Foundation will be consistent with its tax-exempt status.

- adopted November 9, 1978 -

Senator HECHT. Thank you very much.

Senator, do you want to say anything?

Senator WILSON. Just one question, Mr. Chairman, to Mr. Hillyer.

In light of your involvement and with regard, in particular, to your last comment, I am informed that a phrase of art "subject to valid existing claims," works a requirement upon the Secretary of Agriculture to make a determination of validity of any existing claim. Is that your understanding?

Mr. HILLYER. I am not absolutely confident of that, sir. And that is why we have attached language to our testimony in which we urge the Congress to mandate the Secretary to make that determination and then to report back to Congress, if they are valid, what the cost would be of acquisition. But we have strong reason to believe they are not valid claims.

Senator WILSON. Thank you, Mr. Chairman. In the interest of time, I will not ask questions. I thank the witnesses.

Senator HECHT. We thank this panel. The next panel, will you please come up to the table.

Mr. Battaglia, Mr. Lyke, Mr. Woolpert, Mr. Caplin, Ms. Walling, and Mr. Carver.

Mr. Battaglia.

STATEMENT OF PHILIP M. BATTAGLIA, ATTORNEY, HEARST CORP., LOS ANGELES, CA

Mr. BATTAGLIA. I am Phil Battaglia. I am a partner with the law firm of Donovan, Leisure, Newton & Irvine. I am here today speaking on behalf of the Hearst Corp., owner of approximately 77,000 acres in San Luis Obispo County and bordering the Big Sur coast, which is the subject of this proposal.

First, Mr. Chairman, Senator Wilson, we wish to commend Senator Wilson for his concern over the preservation of the Big Sur coast. His concern, as we have heard today and as we have known, is shared by State and local officials as well as all concerned citizens of the area. It is precisely that local concern expressed through stringent enforcible State law, local land use plans, and certified local coastal plans, strict zoning, involuntary restraint by the local citizens which makes Federal intervention in this area totally unnecessary at this time.

Simply stated, this bill is a proposal whose time has passed. And I say that in light of the history of the past 6 or 8 years. In 1980 prior to the adoption by San Luis Obispo and Monterey Counties of their local land use plans and the certification of their local coastal plans, Senator Cranston introduced S. 2551, which would have established a Big Sur National Scenic Area. That bill died in committee.

Shortly after its hearings, however, Congressman Panetta introduced H.R. 7380. This bill also incorporated the Monterey County and San Luis Obispo County land use plans into a comprehensive management plan. In 1980 Congressman Panetta's bill was reported out of committee with significant revisions curtailing the broad powers of the Secretary of Agriculture. My client supported that bill, but unfortunately it did not pass the Senate. But that support was 6 years ago, and much has happened.

Since 1980 local control over the Big Sur coast has become defined, pervasive.

Senator HECHT. Excuse me. Your entire statement will be a matter of record. Please take 20 seconds and summarize; otherwise, I have to stop you.

Mr. BATTAGLIA. I will. Basically, the position of my client on this matter is that, and it has been stated earlier: If it ain't broke, don't fix it. And it appears as though this area is more than adequately protected, and we support the efforts of San Luis and Monterey Counties in those efforts.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Battaglia follows:]

STATEMENT OF PHILIP M. BATTAGLIA, PARTNER OF THE LAW FIRM OF DONOVAN LEISURE NEWTON & IRVINE ATTORNEYS FOR THE HEARST CORPORATION IN OPPOSITION TO S.2159

Before the Senate Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Senate Committee on Energy and Natural Resources. Honorable Malcolm Wallop, Chairman. 9:30 a.m., SD 366 Dirksen Senate Office Building, Washington, D. C. 20510

I

INTRODUCTION

The Hearst Ranch is located in the Northwestern corner of San Luis Obispo County, California. The seventy-seven thousand acre holding has been under the same private ownership for over one hundred years and is now, and always has been, almost completely devoted to an agricultural usage, primarily grazing operations. The property itself is characterized by rolling hills backed, over a mile inland, by the Santa Lucia mountains. The Hearst Ranch coastline is traversed by Highway 1 which runs on a relatively level grade winding in and out with the contours of the shoreline.

The Ranch's proximity to the Big Sur Coast and prior federal attempts to bring portions of the Ranch under proposed federal control of Big Sur compel The Hearst Corporation ("Hearst") to appear and comment on Senator Wilson's attempt to federalize control of Big Sur.

Senator Wilson's concern over the preservation of the Big Sur Coast is laudable. These concerns are shared by State and local officials as well as all concerned citizens of the area. It is precisely this local concern, expressed through stringent enforceable state law, Local Land Use Plans and Local Coastal Plans, strict zoning and voluntary restraint by the local citizenry, which makes federal intervention in this area totally unnecessary at this time.

II

AN ANALYSIS OF THE 121 YEAR HISTORY OF HEARST MANAGEMENT AND STEWARDSHIP OF ITS RANCH PROPERTY

The history of the Hearst ownership and management of the Ranch area discloses a consistently generous policy of granting rights to the people of the State to enjoy the open space, coastlands, and general pastoral quality of the area. In 1865, Senator George Hearst acquired the original 40,000 acres of San Simeon. Under Senator Hearst's direction, the small port of San Simeon was improved to provide service to coastal steamers. Upon the death of Senator Hearst and his wife, Pheobe, William Randolph Hearst assumed responsibility for the operation of the Ranch. It was under William Randolph Hearst's control that the Ranch attained its largest size of 256,000 acres. In 1941, over half of the Ranch (164,000 acres of the eastern portion) was sold to the Federal Government for use as the Hunter Ligget Military Reservation.

In 1919, the construction of the Hearst Castle was commenced as a memorial to William Randolph Hearst's mother, Phoebe. The Castle, "La Questa Encantada" is comprised of various buildings, well landscaped grounds, gardens, two of the most beautiful swimming pools ever constructed, and four magnificent edifices. The buildings consist of the main building, known as "Casa Grande", with three exceptional houses known as "Casa del Mar", "Casa del Sol", and "Casa del Monte". The buildings and surrounding grounds were designated to house the multitude of antiques and art objects which Mr. Hearst had collected over many years from assorted places around the world. The castle is a public attraction of worldwide fame, construction having taken place during the period from 1919 to 1947 at a cost of approximately $7,000,000.

In 1958, the castle was gifted to the people of the State of California and dedicated as the Hearst Historical Monument. Significantly, the Monument has proven to be the only consistently profitable State Park in operation in California attracting over one million coastal area visitors each year.

Hearst has made numerous other gifts to the people of California exhibiting the continuing commitment of the property owner to utilize its property to provide the public with the maximum recreational, educational, visual and scenic experience possible consistent with resource protection and maintenance of its agricultural operation. For example, early in the 1950's, public interest was expressed in acquiring land in San Simeon Cove for the purpose of building a pier and related facilities. Hearst in 1951 conveyed by gift 3.8 acres, including 800 feet of beautiful beach frontage, to the County of San Luis Obispo for a public recreational area and as a site for the building of a public pier. Additionally, Hearst donated to the State of California San Simeon Beach containing 2.36 miles of beach frontage as well as Hearst State Park containing 1.6 miles of beach frontage. The above comprise only the most well-known gifts made to the people of California. Numerous other rights of way and easements have been granted to various governmental bodies, agencies and districts over the years in furtherance of the general Hearst policy of assistance and cooperation with responsible agencies in the area.

In the late 1950's and early 1960's, Hearst's policy on maintenance and preservation of the Ranch property was enunciated in a plan as follows: "the keynote of the plan is preservation of this property and its scenic coastline for posterity, giving due consideration to public service rendered by public enterprise. It will be developed according to our conception of the vision of William Randolph Hearst and his father, Senator George

Hearst, in acquiring and holding intact and unspoiled these vast holdings."

However, by the mid-1960's, increased pressures on Hearst were generated by various State and local agencies to cut up the Ranch, or otherwise dispose of it in manners inconsistent with its established agricultural mode. Most notably, the California Department of Public Works proposed the construction of a four lane expressway through the property along the coastline. Hearst successfully resisted this proposal and, as a response thereto, caused to be prepared and filed a General Plan in the County of San Luis Obispo for the proposed future development of The Hearst Ranch. The General Plan was prepared by the prominent planning firm of Wilsey, Hamm & Blair and, after appropriate hearings in the County, was accepted and filed as the General Plan for the Hearst coastal property known as the Piedras Blancas Plan. The plan outlined the maximum development of The Hearst Ranch coastline and coastal plateau in high density residential development. However, the plan was developed largely as a defensive measure only in response to the then existing pressures being exerted towards piecemeal development and other uses of Ranch property inconsistent with the Hearst objectives noted above. Even though the approved County General Plan for the property allowed high density residential development throughout the Ranch, an obviously attractive prospect financially, Hearst always rejected this opportunity in favor of voluntarily holding the Ranch intact and unspoiled.

County officials in San Luis Obispo have consistently expressed their gratitude that Hearst had the foresight to "hold" the property and not "force" development even though this was in an era when subdivision and development was in vogue. In 1975, the County of San Luis Obispo reevaluated the Piedras Blancas Plan noting the total lack of any development pursuant thereto. In concert with the County, Hearst restudied the Piedras Blancas Plan in light of the policies and standards outlined in the California Coastal Act of 1976 (California Public Resolutions Code § 30000 et seq.) ("Coastal Act") and worked with the Planning Department and Coastal Commission staff to develop an evironmentally and economically sound proposal for the 1980's and 1990's.

In restructuring its land use plans, Hearst again sought a framework that would maintain the open space nature of the Ranch. It was felt essential that the recreational, visual and scenic qualities of the area be preserved. Hearst subsequently retained the services of two environmental planning and land use consulting firms for the purpose of preparing a new plan which would show the complete development options of the Ranch after giving full consideration to each and every relevant environmental constraint and opportunity.

After two years of study, the Envicom Corporation produced an exceedingly detailed environmental inventory of the entire Ranch, entitled "Hearst Ranch Environmental Data Base". The Data Base has been considered by most public agencies and staff that have reviewed it to be the most in-depth environmental analysis done of any coastal landholding in California.

The second firm, Wallace, McHarg, Roberts & Todd of Philadelphia, Pennsylvania, used the data base inventory to generate a "development suitability" plan for the entire Hearst Ranch. This plan delineates each possible form of development on the Ranch that would not unreasonably interfere with the environmental constraints outlined in the Data Base. The development potential of The Hearst Ranch provided Hearst with parameters within which it had to work in selecting development options realistically pursuable. It was from these options that Hearst selected its initial phase of projects, known as The Hearst Ranch Land Use Plan, Phase I, to be implemented over the next ten to fifteen years, and utilizing for actual development the infinitesimal amount of seven one hundreths of one percent (.07%) of the total Ranch acreage. Moreover, these selected options represent the two highest priority uses of coastal property under the Coastal Act; agriculture and coastal visitor serving facilities.

The objective of Hearst in preparing its plan was to provide a full range of experiences and facilities to coastal visitors. All structures will be of a low rise nature and all development will be coastal visitor-serving in nature. Although Hearst recognizes the real need to provide facilities for coastal visitors, that objective is wed to the equally important goal of not jeopardizing the viable agricultural operation presently existing on the Ranch and protecting its environmental resources.

The Hearst Ranch Development Plan became part of the County of San Luis Obispo's proposed Local Coastal Plan (hereinafter LCP), and in early 1982 was submitted by the County to the California Coastal Commission. A modified version of the LCP was adopted by the Coastal Commission and ultimately certified in 1983.

The certified LCP contains a Coastal Commission requirement which was not included in the County's original Plan. This standard requires the granting of an agricultural easement to the County over lands already zoned as agricultural by the County.

Hearst, the County and the Coastal Commission are still negotiating this easement requirement; however, the requirement shows the type of strong State and local control being maintained even with respect to limited and environmentally protective development such as that proposed for The Hearst Ranch.

Hearst respectfully submits that its own historically proven and currently implemented land management policies together with the strict scrutiny and control of new development being exercised by the County and California Coastal Commission obviate the necessity of additional protective measures at the federal level as proposed by Senator Wilson.

III.

PRIOR ATTEMPTS TO IMPOSE FEDERAL CONTROL ON THE BIG SUR COAST WERE FOUND TO BE UNWARRANTED

In 1980, prior to the adoption by San Luis Obispo and Monterey Counties of their Local Land Use Plans and certification of their Local Coastal Plans by the State Coastal Commission, a bill to bring the Big Sur Coast under federal control was introduced by Senator Alan Cranston. The Bill, S. 2551, would have established the Big Sur National Scenic Area. The effect of the bill would have been to subordinate local coastal plans to uniform federal control of the Big Sur Coast and much of the California Central Coast under the Secretary of Agriculture.

S.2551 extended the southerly boundary of the proposed Big Sur Area into San Luis Obispo County and included portions of The Hearst Ranch.

At the Senate subcommittee hearings on S.2551 Hearst objected to the bill, because (i) the proposed boundary of the Big Sur Scenic Area extended well beyond the actual Big Sur area to The Hearst Ranch far to the south; (ii) the bill gave overbroad and unwarranted powers to the Secretary of Agriculture; and (iii) there was more than adequate local control of the proposed areas by the included counties and the California Coastal Commission.

The bill was also opposed by the Carter Administration, former Senator S.I. Hayakawa, Senator Wilson's predecessor, Congressman Jerry Lewis, the Board of Supervisors of Monterey County, the county most directly affected, and others concerned about the preservation of the Big Sur Coast.

The predominant comment at the hearings was "leave the management of Big Sur to the State and counties involved." Support for federal control of Big Sur waned as support grew for giving the local coastal plans a chance to work. Senator Cranston's bill died in Committee.

Approximately one month after the Senate hearings, Congressman Leon Panetta, who supported Senator Cranston's view of federal control of Big Sur, introduced H.R.7380. Unlike S.2551, H.R.7380 proposed a nine-member Big Sur Area Council made up of Federal, State and local interests. The bill also incorporated the Monterey County and San Luis Obispo County Local Coastal Plans into a Comprehensive

Management Plan. Congressman Panetta's bill was reported out of committee with significant revision which curtailed the broad powers of the Secretary of Agriculture to extend the Big Sur boundaries and condemn private property.

On the floor of the House, debate centered, as it did with S.2551, on the need for federal legislation when local control was so pervasive. H.R. 7380 passed the House in August, 1980 and was transferred to the Senate with Senator Cranston's support.

The bill failed to gain passage in the Senate in 1980, and was reintroduced in 1981 where it died in committee.

Since 1980, local control over the Big Sur Coast became more defined and pervasive. Both San Luis Obispo County and Monterey County have adopted Local Land Use Plans and obtained certification from the State Coastal Commission of their respective Local Coastal Plans. These LCPs chart a course of effective and strict local management of the area. Federal intervention into the management of the Big Sur coastline is even less warranted now than it was in 1980. Indeed, there is no need for such legislation at the present time or in the foreseeable future.

IV.

EXISTING CONTROLS IMPOSED BY THE CALIFORNIA COASTAL ACT OF 1976 AND LOCAL COASTAL PLANS MAKE FEDERAL CONTROL OF THE BIG SUR COAST DUPLICATIVE AND UNNECESSARY

Federal protection and preservation of scenic Big Sur Coast is totally unnecessary in view of the stringent, effective and enforceable restrictions of the Coastal Act and the responsible local regulation of development being exercised by Monterey and San Luis Obispo Counties.

In 1972, the voters of the State of California passed an initiative known as the "California Coastal Zone Conservation Act." Based on the authority of this interim initiative, the California Coastal Commission prepared an extremely detailed "Coastal Plan" including an inventory of all coastal resources in California and recommendations as to their protection and preservation to be implemented in the permanent Coastal Act which followed. The California Legislature then enacted the Coastal Act which makes specific and detailed provisions protecting and preserving all coastal resources including scenic and visual qualities within coastal areas such as The Hearst Ranch. (See California Public Resources Code § 30251.) Over and above the pre-existing city and county zoning powers, which also directly restrict California's land developments, the Coastal Act superimposed a level of government consisting of the State Coastal Commission, numerous Regional Commissions, and mandated the development and implementation of Local Coastal Programs by each County for all property in the coastal zone.

Throughout the nation, the Coastal Act is considered to be one of the most restrictive laws ever enacted subordinating the development rights of private property owners to coastal conservation. It is one of the most resource protective pieces of legislation existing in the world. The powers of the Coastal Commission in California are more than adequate to effectively and perpetually accomplish goals and objectives identical to, if not more comprehensive than, those proposed by the "Big Sur National Forest Scenic Area Act"; these powers are utilized by State and local officials who are highly sensitive to the local scene and not a federal administration some 3,000 miles distant.

Noteworthy and highly relevant is the similarity between the Coastal Act and the "Big Sur National Forest Scenic Area Act". As noted above, the voters of the State of California initiated in 1972 a coastal planning process which required the development of a "Coastal Plan" for the entire state virtually identical to the "comprehensive plan" envisioned by the "Big Sur National Forest Scenic Area Act" in Section 6(a). However, the planning objectives of the voters in California have already been actually implemented in the form of the Coastal Act which is, of course, present and enforceable state law. (See former California Public Resources Code Section 27000 et seq.) Each and every concern in the "Big Sur National Forest Scenic Area Act" (including, but limited to, land acquisition plans, visitor transportion systems, public access, resource protection and management, public information, scenic view preservation, natural and cultural resource protection, etc, etc.) has already been addressed by the California Coastal Commission in the greatest of detail in the "California Coastal Plan" and the Coastal Act. It is clear, therefore, that the "comprehensive plan" envisioned by the "Big Sur National Forest Scenic Area Act" is not only an unnecessary, direct duplication of successfully completed efforts by local and State planners, but also it is a plan intended to protect and preserve resources already effectively protected and preserved by the Coastal Act. Such duplication of effort can only be costly and lead to confusion and conflict.

As can be seen from the above noted provisions of State law, the California coastline is, in fact, thoroughly protected in a manner fully in accord with the spirit and letter of the proposed "Big Sur National Forest Scenic Area Act."

Local control of this valuable natural resource has been equally effective. Monterey County's Local Land

Use Plan for the Big Sur Coast, which was adopted by the Monterey County Board of Supervisors on November 5, 1985, and its certified Local Coastal Plan recognize the need for coordination and guidance among Federal, State and County planning authorities, limit the kinds, locations and intensities of land uses and set a policy of responsible planning and management of the Big Sur Coast.

San Luis Obispo County has also strongly set forth its policy of careful planning and management of the Central California Coastal area. Its Local Coastal Plan has also been submitted to and certified by the Coastal Commission.

These Local Land Use Plans are the result of years of environmental study and planning. They should be given every opportunity to succeed before federal intervention into this already heavily regulated area is permitted.

What is needed is voluntary coordination and support among the Federal, State and local authorities in the management of Big Sur; not the preemption of State and local control by Federal officials who can jettison careful local planning upon a mere finding that the local plan deviates in some way from the "purposes" of the federal law.

Cooperation and coordination are the touchstones of effective management of the Big Sur Coast. This bill, introduced as it was without any local input, consultation, coordination, or indeed, support, does nothing to foster these goals.

In fact, the bill has fostered nothing but opposition from those that would be expected to support it. Congressman Panetta, sponsor of previous attempts to federalize control of Big Sur, has now changed his position on the need for federal intervention at this time and does not support this bill.

As Congressman Panetta has stated in a recent letter to Senator Wilson, signed by the Congressman and a broad range of Federal, State and local officials and local civic leaders:

> "The danger with the legislation you have introduced is that the good efforts of citizens, property owners, environmentalists, and local leaders have not been adequately considered. It allows the Secretary of Agriculture to override all of the careful work and accomplishments of the local community."

A copy of Congressman Panetta's letter to Senator Wilson is attached hereto as Exhibit 1.

Opposition to the bill has been registered by Supervisor Strasser-Kauffman of Monterey County, whose district encompasses the Big Sur area. Her recent letter to

Senator Wilson eloquently points out the disenfranchisement already being felt by local planners due to the hasty introduction of this bill.

In her letter the Supervisor states:

> ". . . I have been asked to convey to you the community's support for our recently certified Big Sur Coast Land Use Plan. There is consensus that the plan should be given a chance to work and that practical application of the plan should precede any federal attempt to reinterpret or supplant it."

A copy of Supervisor Strasser-Kauffman's letter to Senator Wilson is attached hereto as Exhibit 2.

The San Luis Obispo County Board of Supervisors has unanimously adopted a resolution opposing the bill. A copy of the resolution is attached hereto as Exhibit 3.

A partial list of the elected representatives, governmental entities, organizations, and individuals who have gone on record as opposing this bill has been compiled by Friends of the Big Sur Coast and that list is attached hereto as Exhibit 4.

The very manner in which this bill was introduced, without local consultation, bears out the fears of all concerned that the years of local planning and commitment to the Big Sur Coast will be disregarded in favor of a federal interest unresponsive to local concerns and insensitive to local needs.

V.

THE WILSON BILL WILL SUPPLANT LOCAL PLANNING AND PRESERVATION EFFORTS AND WILL NOT FURTHER THE GOAL OF PRESERVING THE BIG SUR COAST

In addition to the insensitivity to local concerns which has already been shown, the bill itself sets the stage for complete federalization of the Big Sur Coast. The following is a brief treatment of certain of the bill's principal deficiencies:

First, the proposed boundaries of the Big Sur National Forest Scenic Area are not fully defined. It is therefore not possible to determine, at the present time, the extent to which the federal government might seek to expand its control through condemnation or federal acquisition.

The bill relegates Local Land Use Plans to health, safety and welfare concerns only. The power to protect local character and provide needed resource protection is reserved to the Secretary of Agriculture and the federal system of administration. The Secretary is further given authority to determine whether the Local Land Use and Coastal Plans are consistent with the Act and if not, the Secretary can condemn any privately owned land covered by the "inconsistent" Plans' provisions. The condemnation power applies even to variances given under the Local Land Use and Coastal Plans by the local County upon a proper showing of need.

The "advisory committee" which is the forum for all local input has no power and is to be chaired by a federal official.

The foregoing highlights only some of the principal deficiencies in the bill as it exists. However, even if these deficiencies were corrected, the bill would still be unacceptable because no amount of modification or amendment can compensate for a total lack of need.

"If it ain't broke, don't fix it!"

Finally, the bill ostensibly attempts to protect the fragile Big Sur environment by designating it a National Forest Scenic Area. Yet, no comprehensive analysis of the environmental consequences of such a designation have been undertaken. Designating this area as a Scenic Area very likely will increase growth pressure in the area by attracting even more tourist interest in the area, thereby further taxing Highway 1 and requiring additional visitor servicing facilities.

VI.

CONCLUSION

Hearst recognizes and appreciates the efforts that have been extended over the years by Senators Cranston and Wilson and their staffs on behalf of sound coastal land management, specifically, in this case, the Big Sur Coast. Particularly appreciated is the time, effort and attention Congressman Panetta and his staff have devoted to the Big Sur issue and we applaud the voluntary partnership concept advanced by Congressman Panetta to involve local, State and Federal agencies and private interests in a partnership for continued protection of the Big Sur. Based upon several years of experience working with the staff and the members of the California Coastal Commission, Hearst also acknowledges the Commission's concern for a proper balance between protection of the coast, development of coastal vistor-serving facilities, and protection of existing agricultural operations. While the Big Sur Coast is a valuable and distinct resource, we submit that it has been and continues to be the subject of intense and careful State and local planning to insure its continued protection.

It would seem to Hearst that with a State of California mandated Local Coastal Program (developed by the Counties of Monterey and San Luis Obispo), with continued firm administration of that program by both the Counties and the California Coastal Commission, and with Local Land Use Plans adopted and in force, there is no need for the intrusion of the federal government into areas presently and adequately protected under state law. Such interference with the sound planning practices of the California Coastal Commission, the Counties of Monterey and San Luis Obispo and Hearst is inappropriate, excessive and unjustified.

On behalf of Hearst, I express appreciation to the Subcommittee and its Chairman for having been afforded the opportunity to present my views relating to this important subject. I respectfully request that this statement and attached exhibits be included in the record of this hearing and further request leave of the Chairman to submit such further materials for the record as we may deem appropriate and necessary under the circumstances.

Respectfully submitted,

PHILIP M. BATTAGLIA for
THE HEARST CORPORATION

LEON E. PANETTA
16TH DISTRICT, CALIFORNIA

COMMITTEES
AGRICULTURE
CHAIRMAN
SUBCOMMITTEE ON DOMESTIC
MARKETING, CONSUMER RELATIONS,
AND NUTRITION
HOUSE ADMINISTRATION
CHAIRMAN
SUBCOMMITTEE ON PERSONNEL AND POLICE
SELECT COMMITTEE ON HUNGER
CHAIRMAN
TASK FORCE ON DOMESTIC HUNGER

DEPUTY MAJORITY WHIP

Congreſs of the United States
House of Representatives
Washington, DC 20515

WASHINGTON OFFICE
339 CANNON HOUSE OFFICE BUILDING
WASHINGTON DC 20515
(202) 225-2861

DISTRICT OFFICES
380 ALVARADO STREET
MONTEREY CA 93940
(408) 649-3555

HOLLISTER CA
(408) 637-0500

SALINAS CA
(408) 424-2229

SAN LUIS OBISPO CA
(805) 541-0143

SANTA CRUZ CA
(408) 429-1976

March 31, 1986

The Honorable Pete Wilson
Hart Building, Room SH 720
Washington, D.C. 20510

Dear Senator Wilson:

Your introduction of S. 2159, a bill relating to Big Sur, obviously has created renewed interest and controversy over the future of Big Sur. We are pleased that you share in our goal of preserving this unique area but we believe that this can best be accomplished by building on the existing efforts of the community. As local representatives and citizens long involved in this effort, we take this opportunity to share with you some of these community efforts and, more importantly, our deep concerns regarding your proposal.

The key to preserving the Big Sur coastline is an understanding not only of its magnificent natural beauty but the heritage, culture and special qualities of the people that make this area the truly unique region that it is. This is not a uniqueness that can be addressed by any existing federal land management concept. Past struggles over proposals ranging from a national park, to a scenic area, to the most recent suggestion of a national parkway have confirmed this fact.

As a result, there is a strong local consensus that the most sensitive and successful approach to the preservation of Big Sur rests with those most concerned about saving Big Sur as it is -- the people of this community. The fact that the strongest and most sensitive proposal relating to land management in Big Sur is the Local Coast Plan (LCP) is the best evidence of what citizens, working through local county, business and environmental organizations, can accomplish. The hope of all of those involved in this process is that the LCP can be finalized within the next two months without any added controversies. The focus should be on the funding needed to assist the County in this effort.

Along with the development of the LCP, the community is also deeply involved in an effort to better coordinate the policies of the various agencies that have jurisdiction in Big Sur. This effort is being accomplished by the Ad Hoc Task Force on Big Sur without formal legislation or mandate but out of the same sense of goodwill and concern that produced the LCP.

EXHIBIT 1

The danger with the legislation you have introduced is that the good efforts of citizens, property owners, environmentalists, and local leaders have not been adequately considered. It allows the Secretary of Agriculture to override all of the careful work and accomplishments of the local community. Areas of concern include powers relating to the condemnation of property, the limitation on ownership of property, the overriding of county and state regulations as well as the LCP, the adverse impact of unlimited recreational uses, and possibly, the expanded ability to mine and timber.

Recognizing the concerns of all of us with your legislation, we strongly urge you to do the following:

1. ALLOW THE LCP TO BE FINALIZED. In order to give the LCP the chance to be approved on its merits and not undermined by any additional controversy, we ask that you withhold any further action on this bill, and instead, focus on proposals relating to the funding of the LCP.

2. PROVIDE FUNDS FOR THE LCP. We ask for your commitment to work with all of us and the community to address the most important and fundamental issue involved with Big Sur -- providing adequate funding and resources to make the LCP enforceable and workable under local control. A strong coordinated effort at the federal, state and local level combined with nonprofit organizations is essential to provide the funds needed for implementation of the LCP including property compensation.

3. IMPROVE COORDINATION OF EXISTING AGENCIES. We ask for your representation and commitment to work with the Ad Hoc Task Force on Big Sur to ensure that federal and state agencies better coordinate their efforts in line with the LCP and that these agencies take no independent actions that undermine accepted policies and adversely impact on Big Sur.

4. PROPOSE SEPARATE COMPREHENSIVE OFF SHORE DRILLING POLICY. Because of its special importance both to the Big Sur coast as well as to the rest of the State of California, we believe that the issue of protecting against off shore drilling can be more effectively addressed in a separate and comprehensive piece of legislation that relates to the entire California coastline rather than one area on a selective basis.

As stated above, all of us recognize and appreciate your concern about the future of Big Sur. It is our belief, however, that the most effective way to achieve this goal is to build on the many efforts of the community to maintain Big Sur as a unique area. To persist in legislation not supported by the community will result in needless confrontation between citizen and government and will obstruct the very goals we share. To ensure success, we must insist upon your ongoing consultation and cooperation with all of us in a united effort to preserve and protect Big Sur.

Sincerely,

LEON E. PANETTA
Member of Congress
16th District

KEN MADDY
California Senate
14th District

ERIC SEASTRAND
California Assembly
29th District

KARIN STRASSER KAUFFMAN
Supervisor,
Fifth District
Monterey County

SAM KARAS
Chair, Board of.
Supervisors
Monterey County

ROBERT BUSSINGER
President
Big Sur Chamber
of Commerce

Mike Caplin

MIKE CAPLIN
President
Coast Property
Owners Association

BARBARA VON PROTZ-CHAMBERLAIN
Friends of Big Sur
Coast

Margaret Owings

JIM JOSOFF
General Chairman
Friends of Big Sur
Coast

MARGARET OWINGS
Resident
Big Sur

SANDY SANDERSON
Vice-Chair, South
Coast Friends of
Big Sur

Brian Steen

KATHERINE P. SHORT
Resident
Big Sur

JO STALLARD
Resident
Monterey Peninsula

BRIAN STEEN
Executive Director
Big Sur Land Trust

Alvin Andrus

ALVIN ANDRUS
President, Board
of Directors
Big Sur Land Trust

MONTEREY COUNTY
THE BOARD OF SUPERVISORS
MONTEREY COURTHOUSE - 1200 AGUAJITO ROAD, MONTEREY, CALIFORNIA 93940

KARIN STRASSER KAUFFMAN
SUPERVISOR - DISTRICT 5

SANDRA M. SMITH
AIDE TO THE SUPERVISOR

[illegible]

May 25, 1986

The Honorable Pete Wilson
Senate Office Building
Washington, D. C. 20515

Dear Senator Wilson:

As promised in earlier discussions with your staff, I am sending you a brief summary of comments from the local population upon your proposed Big Sur bill. These comments were received at a Townhall meeting in Big Sur held for the express purpose of obtaining community response which could be forwarded to you.

Throughout the public testimony at the Townhall session, concern was repeatedly expressed that these comments might indeed be "too late" to warrant your personal attention, in that your legislation had already been introduced and without prior community consultation. I trust that this is not the fact, and that you will consider most carefully the public response voiced in this synopsis.

Beyond the attached summary, I have been asked to convey to you the community's support for our recently certified Big Sur Coast Land Use Plan. There is consensus that the plan should be given a chance to work and that practical application of the plan should precede any federal attempt to reinterpret or supplant it. In credit to the people of Big Sur and to the various jurisdictions and organizations engaged in the ten-year detailed planning effort to finalize this document, the Big Sur Coast remains unspoiled. To date no travesties of overdevelopment or environmental degradation exist to warrant premature response for "federal proctection." Moreover, we already have a well-established process of inter-governmental cooperation -- including federal representation -- which allows for regular ongoing communication between the agencies having jurisdiction within the Big Sur area.

In addition, I would like to repeat that our communities, our County staff, and certainly I myself remain eager to discuss with you our objections to the language and details of your

EXHIBIT 2

bill. A letter sent to you on March 31, 1986, signed by all elected representatives of the Big Sur Coast -- from local through state officials and including the U.S. House of Representatives -- is as yet unanswered. This letter set out our objections and invited you to work with us to address them.

Everyone here is appreciative of any public recognition that the Big Sur Land Use Plan should remain the guiding document for protection of our fragile coastline for generations to come. Your own supportive statements of this goal are certainly most welcome. We would like to discuss with you personally alternative actions to the comprehensive federal legislation you have introduced --alternatives which more directly address both your goals for coastal protection and ours.

I look forward to hearing from you at any time.

Respectfully,

Karin Strasser Kauffman

Karin Strasser Kauffman

Encl

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

TUES day 17th JUNE, 1986

PRESENT: Supervisors Jerry Diefenderfer, William B. Coy, Evelyn Delany, Carl Hysen and Chairman Ruth Brackett

ABSENT: None

RESOLUTION IN OPPOSITION TO S. 2159, BIG SUR NATIONAL FOREST SCENIC AREA

RESOLUTION NO. 86-264

WHEREAS, Senator Wilson has introduced S. 2159 which would create a Big Sur National Forest Scenic Area, a federal area administered by the Secretary of Agriculture; and

WHEREAS, there has been a historic and working balance of federal, state, county and private stewardship of the land along the Big Sur Coast; and

WHEREAS, the County of San Luis Obispo is opposed to the federalization of private property and believes that there is already adequate protection, after over ten years work, contained in the Local Coastal Plans (LCP) of cities and counties for the Big Sur Coast; and

WHEREAS, these Local Coastal Plans have been or are about to be certified by the California Coastal Commission; and

WHEREAS, local and state regulation and control of the environment have proved effective in the past for the Big Sur Area; and

WHEREAS, the San Luis Obispo County Board of Supervisors on May 13, 1986 adopted a position in opposition to S. 2159; and

NOW, THEREFORE, BE IT RESOLVED the Board of Supervisors of San Luis Obispo County, State of California, does hereby declare and formally reaffirm its total opposition to S. 2159 and authorize the Board Chairman to communicate this Board's position to members of Congress, including Senator Wilson and Senator Cranston.

Upon motion of Supervisor DELANY, seconded by Supervisor HYSEN, and on the following roll call vote, to-wit:

AYES: SUPERVISORS Delany, Hysen, Diefenderfer, Coy, Chairman Brackett

NOES: None

ABSENT: None

ABSTAINING: None

The foregoing resolution is hereby adopted:

Vice Chairman of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM
AND LEGAL EFFECT
5-17- 19 86
JAMES B. LINDHOLM, JR.
COUNTY COUNSEL
SAN LUIS OBISPO COUNTY
BY
DEPUTY COUNTY COUNSEL

CO-34 [SEAL]

EXHIBIT 3

FRIENDS OF THE BIG SUR COAST
BIG SUR, CALIFORNIA 93820

June 24, 1986

The following is a partial listing of elected representatives, governmental entities, organizations, and individuals who have declared their opposition to S. 2159 to date:

Senator Sam Hayakawa - former U. S. Senator from California

Congressman Leon Panetta

Congressman William E. Dannemeyer

Congressman Robert J. Lagomarsino

Congressman Daniel E. Lungren

California State Senator Ken Maddy

California Assemblyman Eric Seastrand

Supervisor Karin Strasser-Kauffman - Monterey County Supervisor for Big Sur

Supervisor Sam Karas - Chairman, Monterey County Board of Supervisors

Bill Allen - Candidate for Republican Senatorial Nomination

Ed Davis - Candidate for Republican Senatorial Nomination

Steve Donovan - President of Esalen Institute

Bruce Herschensohn - Candidate for Republican Senatorial Nomination

Bob Naylor - Candidate for Republican Senatorial Nomination

Big Sur Chamber of Commerce

Big Sur Coalition

Bixby Property Owners Association

California Federation of Republican Women (Northern Division)

(MORE)

EXHIBIT 4

FRIENDS OF THE BIG SUR COAST
BIG SUR, CALIFORNIA 93920

June 24, 1986

Continued - Partial listing of elected representatives, governmental entities, organizations, and individuals who have declared their opposition to S. 2159 to date:

California Federation of Republican Women (Statewide)

Cambria Chamber of Commerce

Cambria Community Service District

Cambria Republican Women's Club

Cambria-San Simeon Republican Committee

Carmel Republican Women

Central Coast Motel Owners Association

City of Carmel-by-the-Sea

City of Monterey

City of Morro Bay

City of Pacific Grove

Coastal Coalition of Central California

Coast Property Owners Association of Big Sur

County of San Luis Obispo

Friends of the Big Sur Coast

Highlands Bixby Advisory Committee to the Monterey County Planning Commission

Monterey County Democratic Central Committee

Monterey County Republican Central Committee

San Luis Obispo County Republican Central Committee

San Simeon Chamber of Commerce

Senator HECHT. Thank you very much.

Mr. Lyke. Did I pronounce it right?

STATEMENT OF BRIAN LYKE, VICE PRESIDENT AND GENERAL MANAGER, ESALEN INSTITUTE, BIG SUR, CA

Mr. LYKE. Yes, you did fine. Thank you.

Senator Hecht, Senator Wilson, in spite of the glowing remarks of Senator Hayakawa about Esalen and the various luminaries who have led seminars and programs there, you may continue to think of us as that flakey, touchy, feely California odd-ball organization. You may be surprised to know in fact that we still are alive and well in 1986 and we continue to offer seminars in personal growth and awareness. But we also sponsor programs in research in areas that mainstream universities, with their more conservative boards and Government grants, are unwilling or unable to pursue.

Every culture to stay vital and strong needs its Esalen and its Big Sur to provide a counterpoint to the prevailing way of thinking and living and to infuse that culture with new possibilities, new ways of looking at the world that are inspired by free-thinking people grounded in the beauty and rhythms of the natural world.

We will never know, but my guess is that if there had been a Big Sur National Forest Scenic Area in 1962, Esalen never would have survived. Some Secretary of Agriculture would have determined, for whatever reason, that who we are and what we do is not in conformity with the purposes of the act. What people do not understand, they often fear and try to destroy. We probably would have been made into a visitor scenic area or something.

Esalen Institute, like so many other private and public entities in Big Sur and in California, opposes the Wilson bill for all the reasons you will hear today. It is untimely, unnecessary, redundant, poorly conceived, badly written, frightening in the broad powers it reserves to the Secretary of Agriculture, and threatening to the natural scenic and cultural values it intends to protect.

The bill identifies the need to save the cultural values and resources of the area and to us that means the people who live there: the writers, artists, sculptors, photographers, woodcarvers, musicians, and a place like Esalen Institute.

The land inspires the best that we can produce because to do less is to dishonor our heritage and take for granted the gifts of nature. The people of Big Sur who know this land as home and the people from all over the world who come to Esalen and know it as their spiritual home, have unique and special contributions to make to the world that are inspired by the grandeur of this country.

In our view, federalization would initiate the death of a creative way of life and spell an end to the diversity of the cultural resources and would, despite all good intentions, promote a homogenious and colorless way of life.

Senator **Hecht**. I am sorry. I am going to have to close you off. Your entire statement will be a matter of record. And I do not think there is any doubt everyone knows where you stand after that.

Do you need 20 seconds to summarize?

Mr. **Lyke**. No, I do not. I just want to say thank you for hearing me, and I hope this bill never sees the light of day.

[The prepared statement of Mr. Lyke follows:]

Testimony on S. 2159
to Create the Big Sur National Forest Scenic Area

Presented by Brian Lyke, on behalf of Esalen Institute,
Big Sur, CA

To: The Senate Subcommittee on Public Lands, Reserved
Water and Resource Conservation

Room 308 Dirksen Senate Office Building
July 31, 1986

My name is Brian Lyke. I am the Vice-President and General Manager of Esalen Institute in Big Sur, California. I offer this testimony on behalf of the Board of Trustees of the Institute and on behalf of Michael Murphy, Co-Founder of Esalen and Chairman of the Board.

Esalen is a private, non-profit educational facility, founded in 1962 by Murphy and Richard Price to develop educational approaches to facilitate personal growth and to encourage research that might bear upon fundamental questions of human potential. Among those who have lead seminars at Esalen are Aldous Huxley and Arnold Toynbee on the future, Alan Watts and Bishop James Pike on mysticism, Abraham Maslow and Carl Rogers on humanistic psychology, Carlos Castaneda and Willis Harman on altered states, Richard Feynman on education and physics, Joseph Campbell on mythology, and S. I. Hayakawa on semantics.

And there were other kinds of seminars and cultural programs, too: poetry readings by Ferlinghetti, Ginsberg and Bly; music with Joan Baez, Simon and Garfunkel, the Beatles ; inter-racial encounter groups , sensory awareness, Gestalt practice, movement and dance, massage and holistic health programs. Our roots are in the 60's and we partook deeply of the spirit of those days: it was a time of social upheaval, expermentation, hippies and revolution, and Esalen was a Mecca to some and a Sodom to others while becoming known as the birthplace of the human potential movement.

Much has happened since those creative, somewhat chaotic early days. We continue to offer introductory programs in personal growth and awareness to thousands of people annually from every state in the union and over 30 foreign countries, and we continue to sponsor programs and research in areas that mainstream universities with their more conservative boards and government grants are unwilling or unable to pursue.

One of our more notable accomplishments was the establishment, in 1979, of the Esalen sponsored Soviet-American Exchange Program to create alternatives to adversary relationships between our two countries by encouraging a broader understanding of human relations and human potential We have the active support of men like Arthur Hartman, the U.S. Ambassador to Moscow, and Senator Claiborne Pell of the Foreign Relations Committee while remaining an independent, person to person scientific and cultural exchange program. Esalen has sponsored a number of dialoges between Cosmonauts and Astronauts, set up inter-disciplinary working seminars on American-Soviet relations, sponsored exchanges to promote cooperation in the fields of disease prevention, wellness and holistic health, and initiated live satellite educational broadcasts between the U. S. and the U.S.S.R.

More could be said about Esalen's unique contributions to our culture but the whole point of this testimony is to say , in the strongest possible terms, that Esalen Institute opposes S. 2159, Wilson's bill to federalize the Big Sur Coast.

We'll never know, but my guess is that if there were a Big Sur National Forest Scenic Area in 1965 Esalen would never have survived. Some Secretary of Agriculture or Forest Service official would have determined, for whatever reason, that who we are and what we do is not in conformity with the purposes of the Act. We have been perceived by some as an odd ball organization, flakey, and what people don't understand they often fear and try to destroy . (Besides, we would probably make a good visitor serving area or interpretive center.)

This bill identifies the need to save the cultural values and resources of the area, and to us that means the people who live there on the land that they own: the writers and artists, the sculptors and photographers, the wood carvers and musicians, the descendants of homesteaders who have their roots deep in this earth, and it also means also a place like Esalen Institute.

The land inspires the best that we can produce because to do less is to dishonor our heritage and take for granted the gifts of Nature. The people of Big Sur who know this land as home, and the people from all over the world who come to Esalen and feel it as their spiritual home have unique and special contributions to make to the world that are inspired by the grandure of this country. In our view federalization would spell an end to the diversity of the cultural resources, and would , despite all good intentions, promote a homogenious and colorless way of life.

I have seen Yosemite, I have seen what happened in the Cayahoga Valley in Ohio, I have read the recent cover story in Newsweek on the problems of the National Parks, I have heard about the problems of Point Reyes National Seashore and the Mono Lake National Forest Scenic Area, and I am not convinced that the Federal government is better qualified to manage and control our natural, scenic and cultural resources than are local and state governments. Senator Wilson doesn't appear to trust the ability or the intentions of the residents of Big Sur, and our elected and responsible local officials, but he asks us to trust the intentions of the Secretary of Agriculture who will be able to change the boundaries of the Scenic Area, condemn land, and set aside the Land Use Plan if he determines that it is somehow not being implemented in conformity with the intentions of the Act.

In a letter to Jim Josoff of the Friends of the Big Sur Coast in March of 1982 when he was running for the Senate Pete Wilson said, in reference to the then current efforts to federalize Big Sur, "I can tell you that I do not support the federalization of this area and applaud Senator Hayakawa's efforts to stop it. Let's face it, we can't buy every good intention that comes along, particularly at a time when the government is running deeply into the red and taxpayers are rightfully demanding tax relief. I would feel much more comfortable in leaving the decision on the future of this area in the hands of the people on the local level who know it, cherish it, and I believe, have its best interests at heart, rather than turn it over to the bureaucrats. I don't believe that those in Washington are so much wiser that they have to make these decisions for us."

I urge you to do as Pete Wilson in 1982 suggested and leave this area in the hands of those who are already taking care of it. It's more protected now than it was then. Thank you.

Senator HECHT. Thank you very much.

Mr. Bruce Woolpert.

STATEMENT OF BRUCE G. WOOLPERT, CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER, GRANITE ROCK CO., WATSONVILLE, CA

Mr. WOOLPERT. Mr. Chairman, my complete testimony I would like to submit to you.

Senator HECHT. It will be a matter of record.

Mr. WOOLPERT. Thank you.

Mr. Chairman, my name is Bruce G. Woolpert. I am the chairman of the board and chief executive officer of the Granite Rock Co. The focus of our concern with S. 2159 is its potential impact on Granite Rock's unpatented mining claims in the Los Padres National Forest at Pico Blanco, CA.

Since 1962 Granite Rock has maintained unpatented mining claims on National Forest Service lands within the Los Padres National Forest. At the current time, Granite Rock has 16 placer claims and 16 lode claims in the Pico Blanco area. Located 15 miles south of Monterey and, most important for you to hear, 5 miles inland from the coast, the Granite Rock limestone deposit is well known because of its enormous quantity of over 1 billion tons and its exceptional quality, 95 to 98 percent white pure calcium carbonate.

The California State Mining and Geology Board has classified it as the only deposit of high-grade limestone in northern California, and we believe it to be the largest high-grade white limestone deposit in North America.

The continued availability of chemical grade limestone is important to the Nation for many reasons, not the least of which is its vital role in environmental protection. Limestone of quality found at Pico Blanco is the only technology for removing sulfuric acid and other impurities from stack gases necessary to meet the requirements of the Clean Air Act. It is also believed that the limestone will play a role in the prevention and neutralization of acid rain.

At the current time, there are a few high-grade limestone mines in the United States. In the 11 Western States, there are only two. While there are certainly ample grounds to debate the need for the merits of the creation of the Big Sur national scenic area, I do not intend to specifically address those concerns here. It is my plea to you, as members of this committee, to exclude Pico Blanco deposits from any scenic area that is created. Inclusion of the Pico Blanco deposits is not necessary for the protection of the Big Sur area and the inclusion of Pico Blanco deposits would constitute a regulatory taking of Granite Rock's property, requiring compensation by the Federal Government.

Remembering the deposit is 5 miles inland, it is not part of the Big Sur experience; it is part of Los Padres National Forest, where we want it to stay.

Thank you.

[The prepared statement of Mr. Woolpert follows:]

Graniterock

TESTIMONY OF BRUCE G. WOOLPERT
CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER OF THE GRANITE ROCK COMPANY

BEFORE THE

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
S. 2159, THE BIG SUR NATIONAL FOREST SCENIC AREA ACT

July 31, 1986

Mr. Chairman, my name is Bruce G. Woolpert and I am the Chairman of the Board and Chief Executive Officer of the Granite Rock Company. It is my distinct pleasure to be here today and to have the opportunity to discuss Granite Rock's concerns with S. 2159, The Big Sur National Forest Scenic Area Act.

The Granite Rock Company is a family-owned business employing nearly 500 people which was incorporated in 1900. It is one of the West Coast's leading suppliers of construction and building materials and is headquartered in Watsonville, California. The focus of our concern with S. 2159 is its potential impact on Granite Rock's unpatented mining claims in the Los Padres National Forest at Pico Blanco, California.

Since 1962 Granite Rock has maintained unpatented mining claims on National Forest Service lands within the Los Padres National Forest. At the current time, Granite Rock has 16 Placer claims and 16 Lode claims in the Pico Blanco area. Located 15 miles south of Monterey and five miles inland from the Coast, the Granite Rock limestone deposit is well known because of its enormous quantity of over one billion tons and its exceptional quality (95-98% pure calcium carbonate.) The California State Mining and Geology Board has classified it as the only deposit of high-grade limestone in Northern California, and we believe it to be the largest high-grade white limestone deposit in North America.

The continued availability of chemical grade limestone is important to the nation for many reasons not the least of which is its vital role in environmental protection. Limestone, such as that found at Pico Blanco, is used at wastewater treatment plants throughout America as the primary treatment agent for sludge. Municipal water treatment plants are also large users of high-grade white limestone, which is used to reduce the acid content of drinking water. In addition, and perhaps most important, the limestone of quality found at Pico Blanco is the only technology for removing sulfuric acid and other impurities from stack gases; necessary to meet the requirements of the Clean Air Act. It is also believed that the limestone will play a role in the prevention and neutralization of acid rain.

As I am sure the members of this Committee are aware, limestone is a major mineral commodity for the construction, cement, agricultural, metallurgical, chemical, and plastics industries. It also plays a large role in the manufacture of glass and in refining of sugar.

The Granite Rock Company's deposit at Pico Blanco is one of the few sources of high calcium limestone which can be used for whiting. Its lack of impurities allows it to retain a very white color when crushed and finally ground. Whiting is the only product for which mining has thus far occurred at the Pico Blanco limestone site. Limestone with a high whiteness purity has a specialized market and commands a premium price. The unit value of limestone whiting, as reported in 1979 by the Bureau of Mines, was about $27 per ton as compared to $2 - $3 per ton for other major uses of lower grade limestone, such as in cement manufacturing, concrete aggregate, and construction stone. Moreover the price of the most finely ground limestone whiting can be as high as $200 per ton.

Primarily used in the manufacture of paint, putty, and rubber, whiting-grade limestone has a wide market. Since the early 1970's, when the era of cheap and plentiful supplies of resin (principal raw material of the plastics industry) came to an end, mineral fillers as well as some other varieties of fillers have become important as bulk fillers and reinforcing agents for optimizing the use of increasingly expensive resin. Calcium carbonate constitutes the most widely used filler in the plastics industry, and the United States has approximately 50% of the world wide market for plastic fillers. In addition to the other uses of high-grade white limestone already mentioned, it is also used as a pharmaceutical filler and an animal feed supplement.

At the current time there are a few white, high-grade limestone mines in the United States--in the 11 western states there are only two mines. In the next century Granite Rock's Pico Blanco limestone deposit may be the only source of white high-grade limestone in America.

Despite the many important uses of high-grade white limestone in our society and its relative scarcity, Granite Rock's Pico Blanco limestone deposit has been made a source of controversy and contention by some environmentalists. For the past five years the California Coastal Commission has endeavored to prohibit Granite Rock's continuing operation, explorations, and future commercial quarry of its unpatented mining claims. Granite Rock began mining its Pico Blanco claim in 1981 after the U.S. Forest Service approved its five-year plan of operations which the company submitted pursuant to applicable

Forest Service regulations. On October 17, 1983, after Granite Rock had operated without the Coastal Commission's objection for over two years, the Coastal Commission demanded that Granite Rock obtain a state permit in order to continue its mining operations on Federal lands. Granite Rock immediately brought suit for declaratory and injunctive relief to prevent the Coastal Commission from enforcing the alleged state permit requirement. The Federal District Court denied Granite Rock's motion for summary judgment and dismissed the action. However, in August 1985, the United States Court of Appeals for the Ninth Circuit reversed the lower court's ruling, holding that independent state permit authority is preempted by Federal mining laws and the United States Forest Service regulations. The United States Justice Department supported Granite Rock's position before the Ninth Circuit and filed an amicus brief on Granite Rock's behalf. The Supreme Court of the United States has now accepted an appeal by the California Coastal Commission, and the case will be argued late this fall. Again, the Justice Department will support Granite Rock's position and the Solicitor General has requested time to offer oral arguments.

Mr. Chairman, with this background of litigation I am sure you understand why Granite Rock is so concerned with S. 2159. While there are certainly ample grounds to debate the need for and the merits of the creation of a Big Sur National

Scenic Area, I do not intend to specifically address those concerns here. It is my plea to you -- as members of this Committee -- to exclude Pico Blanco from any scenic area that is created. Inclusion of Pico Blanco is not necessary for the protection of the Big Sur Area and the inclusion of Pico Blanco would constitute a regulatory taking of Granite Rock's property requiring compensation by the Federal Government.

As I indicated earlier, Mr. Chairman, Granite Rock's limestone deposits are located approximately five miles inland from the Pacific Ocean. The deposits cannot be seen from the coast or the Pacific Coast Highway. Prior to the approval of Granite Rock's Plan of Operations in 1981, the Forest Service completed an Environmental Assessment for Pico Blanco and issued a finding of No Significant Impact on February 26, 1981. At that time, Granite Rock's proposed operations were given a clean bill of health from an environmental standpoint. Now, as a result of further litigation, the Forest Service is preparing a full Environmental Impact Statement with which Granite Rock is cooperating. We are confident that the Environmental Impact Statement will show -- just as the earlier Environmental Assessment did -- that limestone can be mined at the Pico Blanco site without disrupting the environment. Granite Rock has always been and continues to be willing to submit to all reasonable Forest Service regulations to assure that the mining operation is not visable from Highway 1. Unfortunately, the opponents of limestone mining at Pico Blanco have insisted upon spreading a series of untruths about Granite Rock's proposed operations and its potential impact on Big Sur. For that reason we are happy to have the opportunity today to disspell some of those myths.

The development of Granite Rock's unpatented mining claims will occur in two phases. The first phase will encompass the next three to five years during which full scale production will entail the removal of limestone at a rate of 15,000 - 32,000 tons per year. During the annual eight month operating season, truck traffic will consist of between four and eight 25-ton loads per day. The existing road system on Forest Service land is sufficient to handle that amount of traffic. At the end of the first phase, approximately seven acres of surface resources will have been impacted by mining activities -- five acres constituting the actual quarry, one acre to the road system, and one acre to overburden disposal. During this initial phase of operations, Granite Rock is studying the most efficient and environmentally sound method of developing its holdings. Assuming that the quality of ore is competitively acceptable -- and we have every reason to believe that it will be based on existing data -- we will then move into a second phase which will encompass 25 to 50 years. At the conclusion of the second period the quarry will encompass approximately 100 acres. Before moving into the second phase a revision of the Plan of Operations will be required.

Given the location of Granite Rock's unpatented mining claims, and the sort of operation contemplated by Granite Rock, we believe strongly that there is no sound environmental reason to include Pico Blanco in the proposed scenic area. However, should Congress desire to do so it is clear that such an action will result in regulatory taking of Granite Rock's property requiring compensation under the Fifth Amendment to the United States Constitution.

The property rights of persons holding unpatented mining claims are well established in the law. After a discovery of a valuable mineral deposit upon a properly located claim, the possessory right of the locator is a property right in the fullest sense, unaffected by the fact that the paramount title to the land is in the United States. The claim is capable of transfer by conveyance, inheritance, or devise. Union Oil v. Smith, 249 U.S. 337 (1919). Therefore, an unpatented mining claim is a property right which is within the protection of the Fifth Amendment's prohibition against the taking of property for public use without just compensation. Freese v. United States, 770 F.2d 177 (FCAC 1985). A discovery of valuable minerals by a qualified locator upon unappropriated public lands creates substantial property rights in the locator as against the United States. United States v. Zweifel, 508 F.2d 1150. (1975).

The validity of Granite Rock's mining claims are not at issue. They have been properly located and have been demonstrated to be of substantial commercial value by the California State Mining and Geology Board. Furthermore, the annual assessment work required by the Mining Law of 1872 has been performed diligently for the past 25 years.

While S. 2159 on its face protects valid existing rights such as Granite Rock's unpatented mining claims, that fact provides little comfort to us. The stated purpose of S. 2159 is to confer upon the Federal lands in the Big Sur Area the same sort of protection which the County of Monterey and the California Coastal Commission have adopted for land use within the Big Sur Area. That we believe would result in a taking of Granite Rock's unpatented mining claims.

S. 2159 would incorporate by implication the Big Sur Land Use Plan that was adopted by the local government and certified by the Coastal Commission. The incorporation of this plan and the resulting regulatory scheme would mean the end of Granite Rock's ability to maintain an economically viable quarry at Pico Blanco. S. 2159 incorporates the Land Use Plan by requiring that Federal lands in the Big Sur National Scenic Area be administered separately from other Federal lands and that the

Forest Service, when administering those lands, maximize coordination with local government.

Section 5(a) of the legislation mandates that "[t]he Secretary, acting through the Chief of the Forest Service, shall administer all Federal lands located in the scenic area as a separate unit within the boundary of the Los Padres National Forest..." This separation is to be followed by a management plan formulated within three years, specific to the areas covered by the Big Sur National Scenic Area, and presumably different from the rules and regulations applicable to the rest of the Los Padres National Forest. S. 2159 Sections 5(1) (1), (2), (3), and (4). This separate management plan will carry out the three purposes of the legislation, one of which is to define the Federal role in the management of the Big Sur Coast in a manner which "maximizes coordination with the state and local units of government and private land owners; utilizes existing levels of jurisdictions; and establishes appropriate governmental coordination and authority where necessary to accomplish the purposes of this act." S. 2159 Section 3(c). Since the proposed bill separates the Federal land in the scenic area from the rest of the Los Padres National Forest and mandates that the Secretary formulate rules and regulations that are compatible with local regulations, it therefore incorporates the existing land use plan by implication. If the Secretary formulates rules and regulations that conform to the local plan, there will most certainly be a taking. As Justice Oliver Wendall Holmes so aptly put it in the leading case regarding the taking of mining claims, "what makes the right to mine coal valuable is that it can be exercised with profit. To make it commercial impracticable to mine certain coal has very nearly the same effect for constitutional purposes as appropriating or destroying it." Pennsylvania Coal Company v. Mahon, 260 U.S. 393, 414-415 (1922).

The mineral resource section of the Land Use Plan demonstrates the onerous burdens to be placed on Granite Rock's mining rights. LUP at Section 3.8. No roads or mining are allowed within the critical viewshed. Id. at Section 3.8.2.(1). Large scale mineral development is not appropriate at Big Sur. Id. at 3.8.3.(1). Mining trucks are not permitted on Highway 1 between 7 a.m. and 10 p.m. Id. Section 3.8.5.(a). Surface blasting or the operation of loud equipment within close proximity is not allowed. Id. at Section 3.8.5.(d). To minimize visual scarring, disturbed surface areas must be restored through the use of indigenous vegetation so that no boundary is discernible between mined and unmined areas. Id. at Section 3.8.5.(i). Finally, disturbed land shall be restored to a condition capable of supporting the uses for which it was capable of supporting before the mining activity or higher and better uses simultaneously with the mining activity. Id. at Section 3.8.5.(j).

Simply put, the local land use plan permits mining so long as the minerals are extracted with noiseless equipment (e.g., a shovel), removed from the area without using roads (e.g., by helicopter) or if using roads -- between 10 p.m. and 7 a.m., leaving no discernible impact, and must be simultaneous with a reclamation effort that may rival the mining activity itself in cost and time. While the purposes of the Land Use Plan may be laudable, they impose requirements on Granite Rock that make mining commercially impossible. Any reasonable person reading these requirements will recognize that the LUP's goal is not to regulate mining, but rather to prohibit it. If that is the case and such a result is desired by the public, then it should be paid for by the public. If Granite Rock's mining claims are antithetical to the public good, then the public should either pay just compensation for Granite Rock's unpatented mining claims or allow Granite Rock to exercise its legitimate property rights.

It should also be noted that the regulatory prohibition of mining and the development of Granite Rock's unpatented mining claims would render Granite Rock's private holdings in the area worthless as their only value is in conjunction with the development of Granite Rock's unpatented mining claims.

Given the fact that passage of S. 2159 would constitute a taking of Granite Rock's property requiring just compensation, the next question that must be addressed is what the value of that property right is which must be compensated for. Since this would be a long detailed and expensive project and because of the fluidity of current markets, appraisals over six months old are of questionable value. However, preliminary studies by our staff appraiser, engineers, and from independent engineers, appraisers, and consultants estimate, on a 50-year operating basis, the present market value of Granite Rock's mining claims is in excess of 40 million dollars plus a residual deposit value. Under the most favorable market conditions, estimates indicate that less than 10% of the deposit will be depleted in 50 years. In addition, when the adjoining fee properties of approximately 1,000 acres are considered with high-grade white limestone, timber, and improvements the value for the claims and fee properties, the total approaches 100 million dollars. A recent independent cruise and appraisal of the virgin Redwood timber on the fee properties indicates an immediate timber value of approximately one million dollars. This appraisal was based on California sustained yield regulations and shows another $600,000 in ten years.

Mr. Chairman, the issue that Congress must confront in considering whether to include Granite Rock's unpatented mining claims and private holdings within the boundaries of the Big Sur National Scenic Area Act is whether, in an era of budget constraints, this property should be condemned at an estimated cost of $100 million, or whether Granite Rock should be allowed to develop its mining claims subject to reasonable Forest Service regulations. Obviously, if it is Congress' decision to include Pico Blanco within the National Scenic Area, that is the Congress' right, so long as just compensation is paid. However, it is not our desire that this occur.

Granite Rock's goal is a simple one. It is to mine high-grade white limestone for our nation's use in a manner which is environmentally sound and which will provide a return on investment. We do not believe that this is an unreasonable goal, but one which society as a whole, and this Committee, should endorse. I sincerely appreciate the opportunity to testify here today and look forward to answering any questions you might have.

Senator HECHT. Thank you very much.

Mr. Michael Caplin.

STATEMENT OF MICHAEL CAPLIN, PRESIDENT, COAST PROPERTY OWNER'S ASSOCIATION, BIG SUR, CA

Mr. CAPLIN. Good morning, Senators. My name is Michael Caplin. I am president of the Coast Property Owner's Association of Big Sur, and I live within the area proposed to be federalized by S. 2159.

Among the many negative consequences which S. 2159 would generate is one which reaches far beyond Big Sur or the central California coast. By placing a Federal appointee in a superior position to control land use than that of our elected State and local legislators, the bill would attack the constitutionally established separation of powers between our State and Federal levels of Government.

The 10th amendment of the Constitution is very clear:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the People.

The responses to the following series of questions which were asked of Senator Wilson's environmental aide will help illustrate the point:

> *Question.* I am wondering if you have a problem with the concept of the Federal Government enforcing all local plans anywhere in this country?
>
> Answer. Very definitely.
>
> *Question.* What is the problem you have with that?
>
> Answer. That is the responsibility of the local government; it is not the responsibility of the Federal Government.
>
> *Question.* Why?
>
> Answer. That is by way of separation of powers. That is why we have State responsibilities. That is why we have not nationalized the entire country. That is why we have a State Government and a Federal Government.

Gentlemen, I ask you, why should not the protections of the Constitution apply in Big Sur as they do in the rest of the Nation?

We have been told Big Sur is a special place; and it is. But I challenge you to find any place in this country which is not special for its own reasons. We have been told Big Sur is a national treasure. If so, it is one of many. Perhaps our greatest national treasure is the Constitution upon which this great experiment, the United States of America, is based.

Proponents of S. 2159 demand that we accept a false premise—that is, that we must sacrifice our one national treasure, one national treasure, to preserve another. Having successfully protected the area for generations without sacrificing our constitional protections, Big Sur people have proven that the environment and the Constitution can be compatible.

In the last 27 years, Big Sur people have been joined in this effort by the County of Monterey, the State of California, and, most recently, by their congressional representative, Leon Panetta. We hope that soon they will be joined by Senators Cranston and Wilson, as well.

Senator HECHT. I have to ask you to summarize.

Mr. CAPLIN. I can be finished before 20 seconds is up.

Senator HECHT. Go.

Mr. CAPLIN. Some of mankind's worst injustices have been committed for the best of reasons. This country is an experiment; there is no guarantee that it will work. Only by carefully guarding all our Nation's treasures will we have any hope of escaping the logic of tyranny which has been the downfall of numerous countries and civilizations before us.

Thank you.

Senator HECHT. Thank you very much. He was 4 seconds over, so we will dock you 4 seconds.

Ms. Paula Walling.

I am kidding, of course.

STATEMENT OF PAULA ANITA WALLING, BIG SUR COALITION, BIG SUR, CA

Ms. WALLING. Thank you.

Good morning, Senators. My name is Paula Walling. I have been teaching for the Carmel Unified School District for 17 years, the last 15 of which it has been my pleasure and good fortune to spend at Captain Cooper School in Big Sur. I was a California semifinalist for the Teacher in Space Program, and I write for the Journal of the Teacher in Space Foundation as well as for other magazines and newspapers. When I write, I write with the future of the children of our country in mind.

My master's thesis on Creating Environmental Awareness in the Classroom begins with this quote from Stewart Udall: "History tells us that earlier civilizations have declined because they have not learned to live in harmony with the land." Notice it says "with."

Preparers of the bill before you tell you that S. 2159 was written to protect the Big Sur coast for future generations. They are wrong. This bill does nothing to educate our young people as to how they should live with the land or how they should be its future stewards. It tells them to ignore rather than solve problems. It teaches irresponsibility. It breeds contempt and resentfulness, by depriving future generations of their God-given right to live in harmony with the land, should they so choose.

The children of Big Sur are steeped in knowledge of coastal ecology, and they celebrate the very existence of the sea otter, the gray whale, hawks, owls, raccoons, deer, wildlife too numerous to mention.

I know that something is seriously wrong in our country when my 8-year-old son looks up at me and says, "Mommy, if the Federal Government kicks us off our land, I want you to take one seed of every kind of plant and every kind of tree so we can go and plant them somewhere else." How dare anyone make such gypsies of our gentle and caring children.

We are not about to let that happen. We are going to go right on teaching our children to care about the place where they live, because we are going to go right on living there and caring about it ourselves. I will read you a children's story that tells and shows why.

You have the pictures with you. This is "The Mountain" by Peter Parnall:

This is the mountain that stood in the West.
These are the flowers that grew there.
These are the moles that smelled the flowers
that grew on the mountain that stood in the West.
These are the birds that lived in the trees
that sheltered the deer that lived in the forest
that grew on the mountain that stood in the West.
These are the people
who loved the mountain and wanted to keep it . . .
just . . . the way . . . it was.
So Congress passed a law making the mountain a
National Park and a road was built.

There are eight pages to show you the progressive deterioration. This book was written in 1971.

Senator HECHT. It will all be a part of the record.

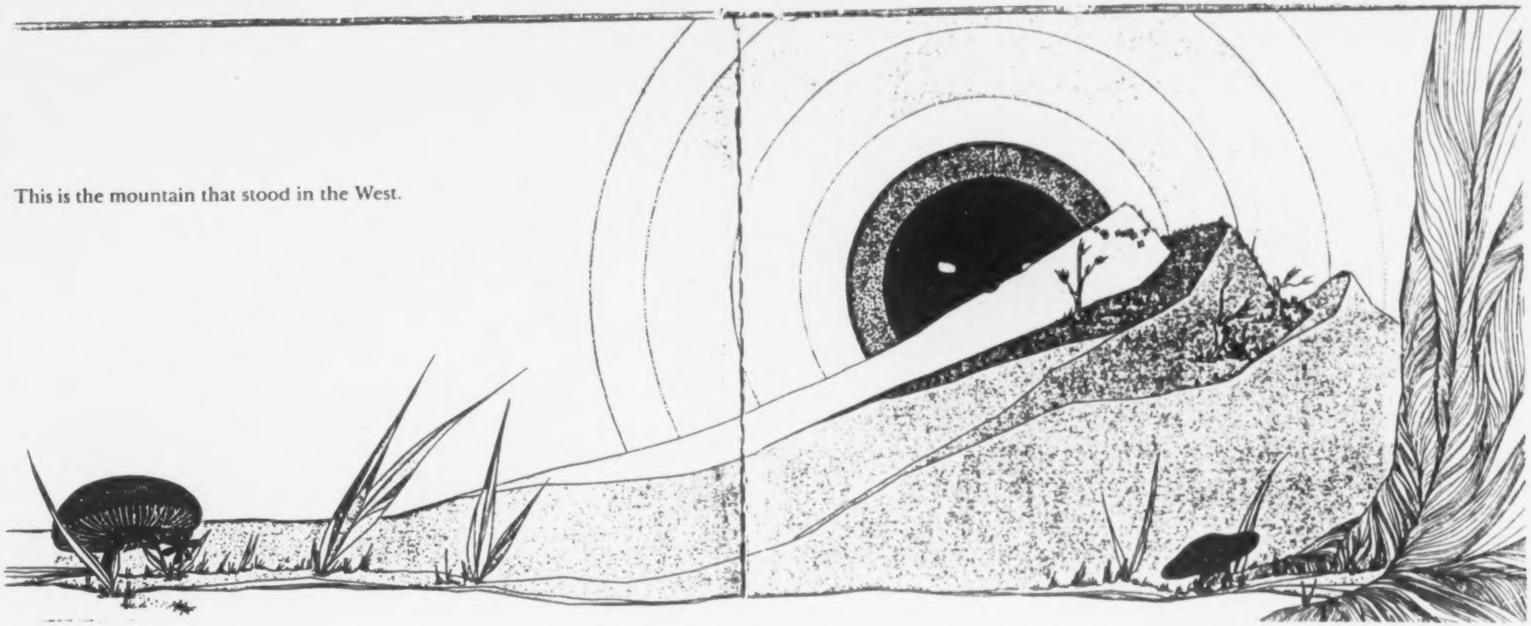
Ms. WALLING. Thank you. There are pictures.

Senator HECHT. Thank you very much.

Ms. WALLING. "This is a flower . . . trying to grow on the mountain that stood in the West."

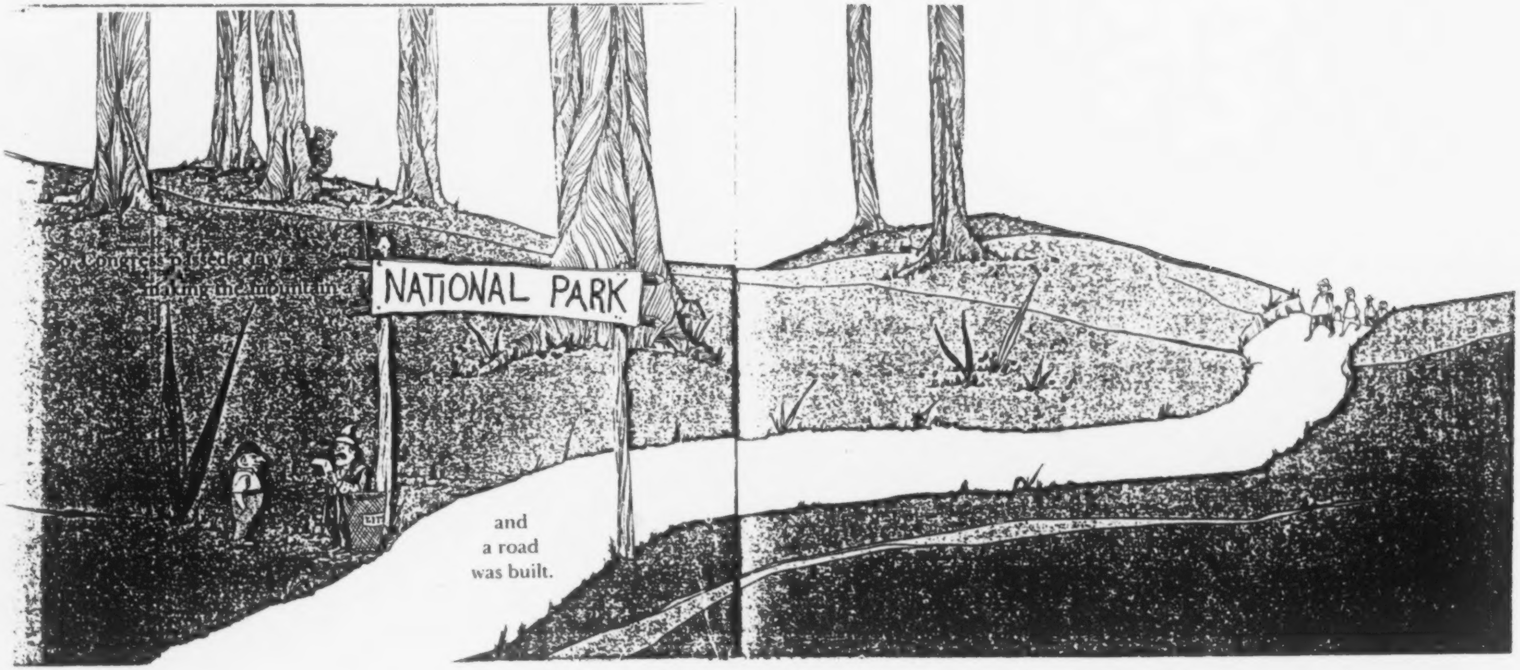
And thank you for hearing our side.

[The attachments to the prepared statement of Ms. Walling follow:]

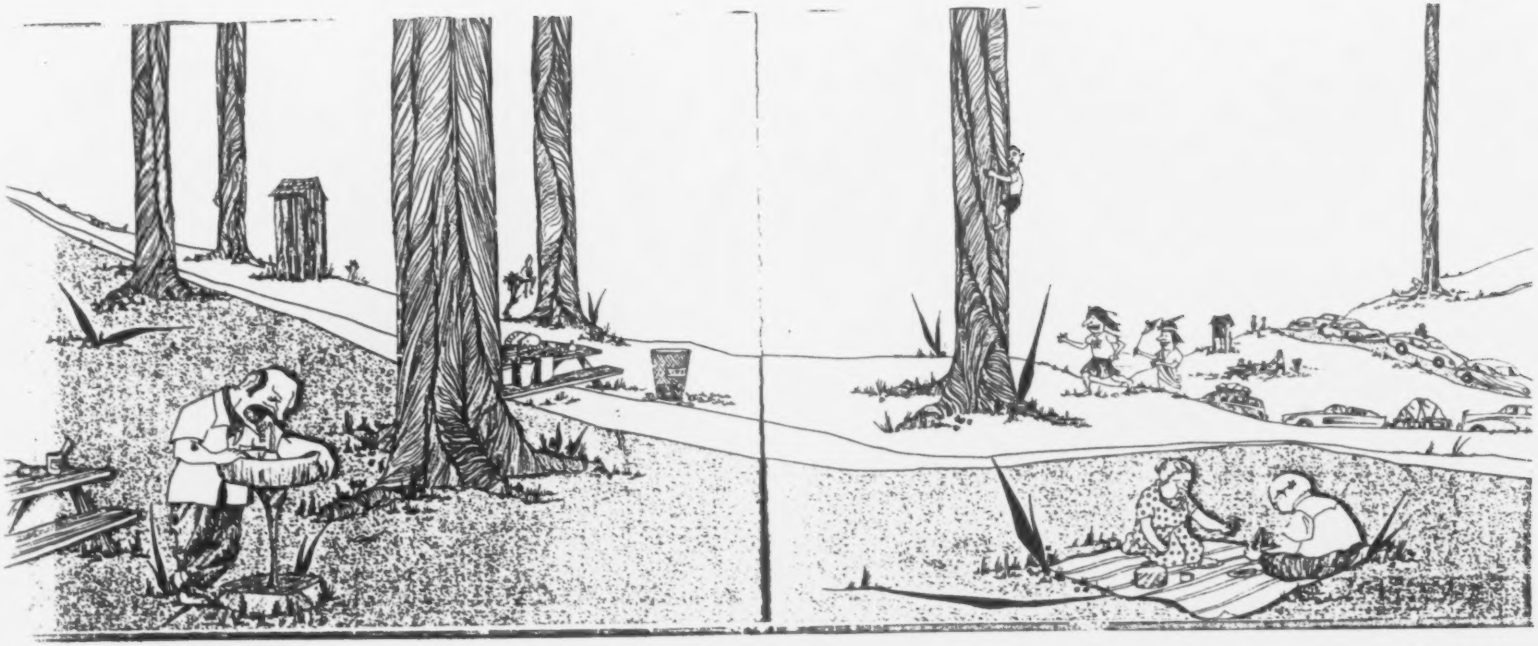


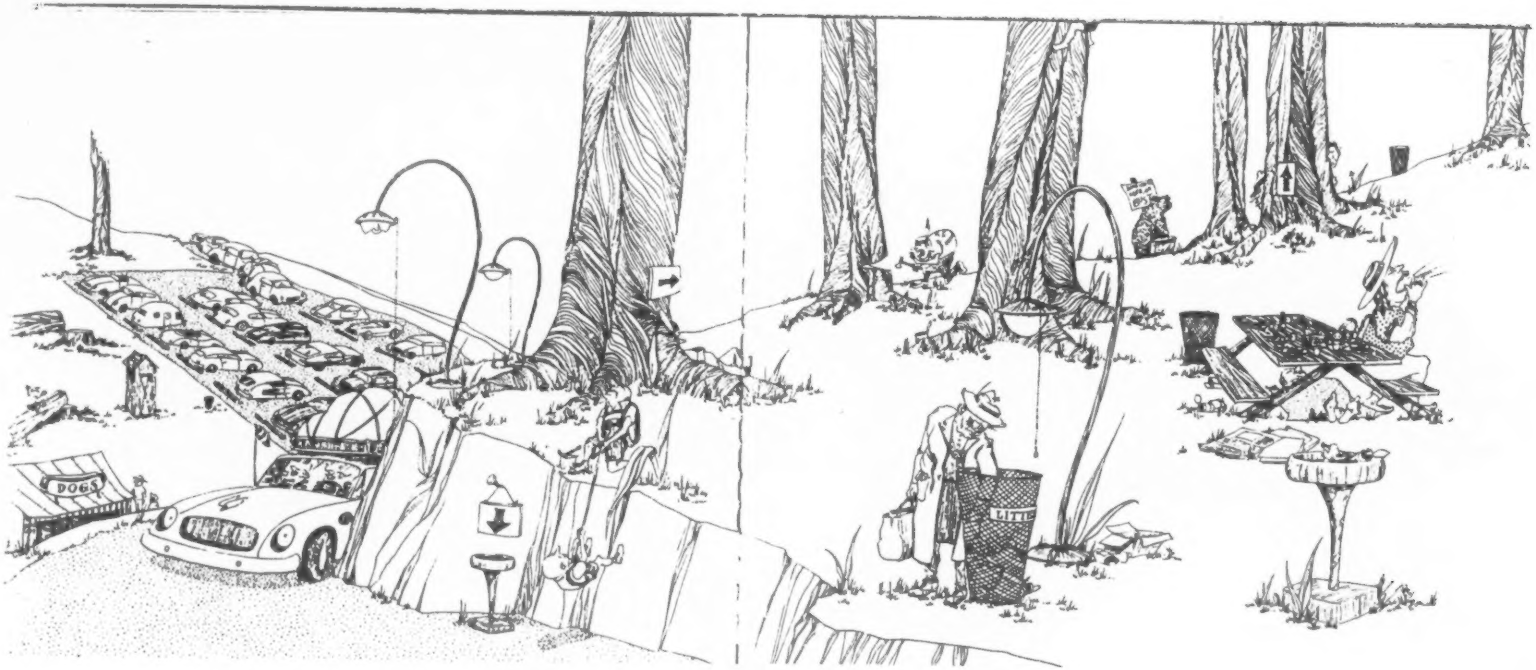
This is the mountain that stood in the West.

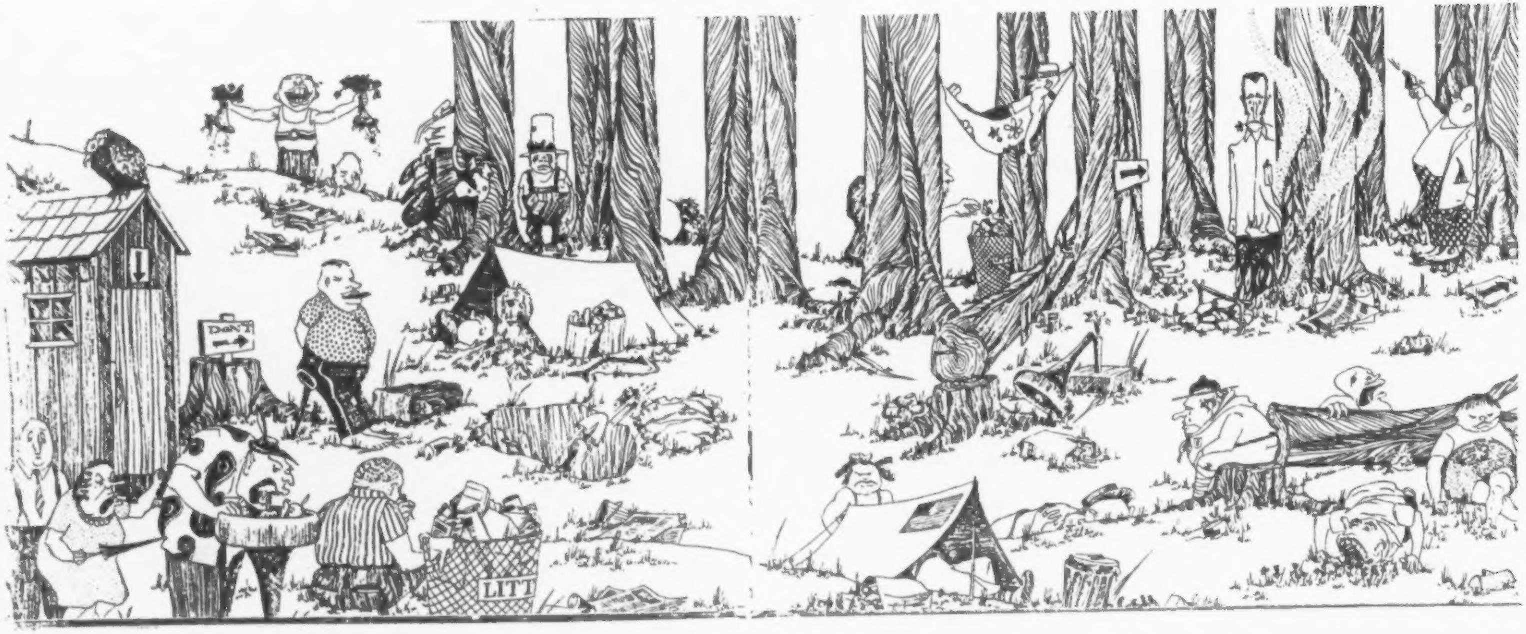
So Congress passed a law
making the mountain a


NATIONAL PARK

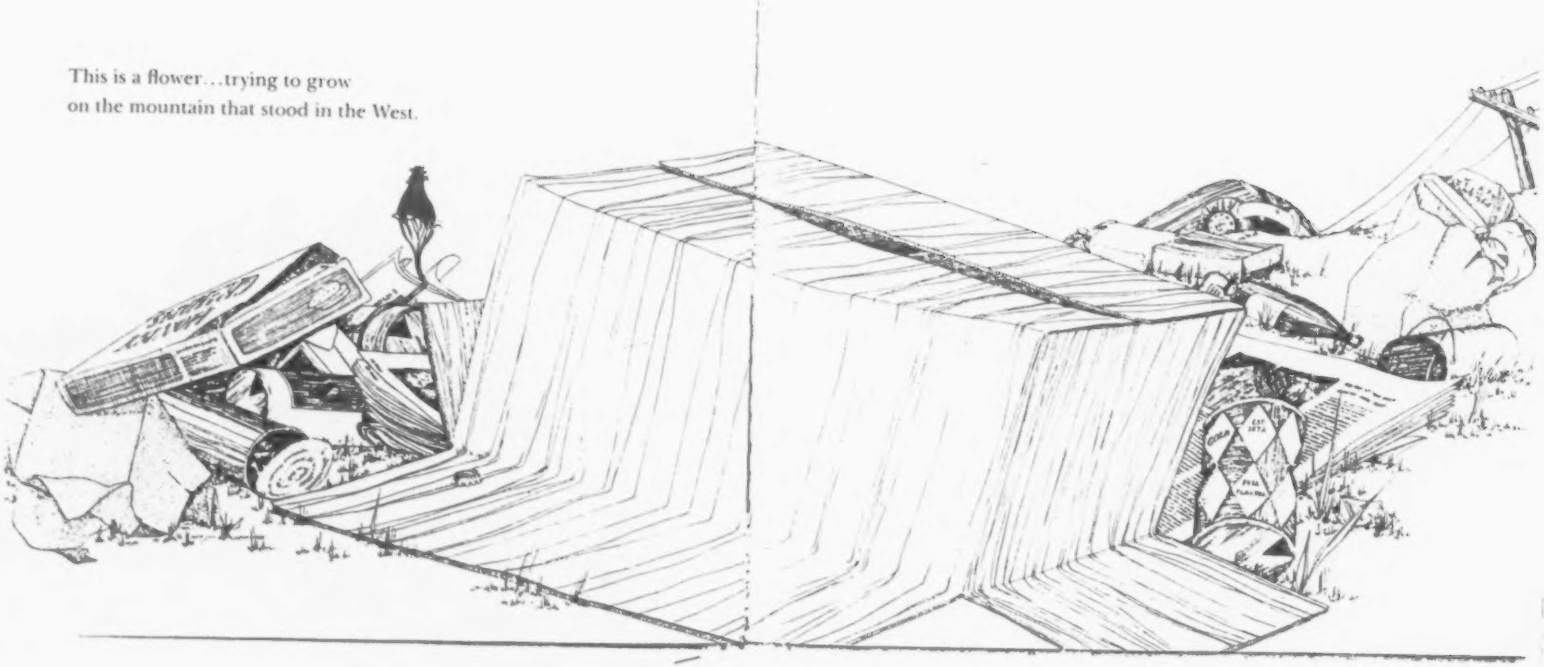
and
a road
was built.




DOGS
LITT


DON'T
LITT

This is a flower…trying to grow
on the mountain that stood in the West.



Voice in the Wilderness
THE ENVIRONMENTAL BACKLASH

by Paula Walling

When I moved into the California coastal mountains just 11 years ago, I thought the few bumper stickers saying "Sierra Club Take a Hike" (and other uncomplimentary suggestions) were the aberrations of a half dozen disgruntled individuals. But two years ago, after 19 years in the Sierra Club, I had to begin asking myself if that organization bore any resemblance whatever to the one I had originally joined — or for that matter if any of the other environmental groups to which I belonged still held environmental protection as their chief goal. (At that time It was acceptable to question motherhood, and even apple pie, but never the Audubon Society.)

Events occurred which forced me to reevaluate that unquestioning loyalty. Either environmental protection had changed definitions, or I never knew what it was when I took up membership in all those clubs, societies, leagues, councils and conservancies; and cheered the trust funds and foundations which feed upon them. As someone sincerely concerned with environmental issues, I was deeply disappointed that such organizations with their vast resources regarded "protection" in utterly simplistic terms. It was as if public ownership and a public designation of some kind could automatically protect land. These groups gave little if any thought to the impact of the public itself on fragile and formerly inaccesible land.

I thought it was only in Big Sur that residents lived in fear that a beautifully protected area, if taken over by the federal government would be destroyed by concessionares, consultants and the usual tourist trap atmosphere of such places. But as I began reading government reports and other material, I realized that one area after another had been transformed from serene homes, farms, and ranches into visitor-serving facilities and parking lots — displacing the charming rural, pastoral quality of life. All in the name of preservation. I began to see a pattern in all these federal takings, a pattern clearly showing that the environment comes second.

Time and again, the environmental establishment has sold out on small property owners in favor of large recreational developments. Time and again the environmental establishment has given in to its own radical elements, which prefer the nationalization of land and resources to the protection of them. Time and again the environmental establishment has overlooked public safety and sought access in unsafe, unmaintained, unpatrolled areas — saddling the taxpayer with the resulting rescues, fire suppression costs, litter clean up and crime increase which always accompanies accelerated public use.

Environmentalists are rapidly losing credibility because they have allied themselves with elitist candidates and campaigns rather than with environmental causes. No longer volunteers, the paid employees of environmental organizations have become petty obstructionists rather than reasoned protectors of the environment. I have watched environmentalists oppose a single family dwelling in a so-called water-short area, only to see the same group sanction expansion of a major hotel in the same watershed. I believe that the upper echelon of the environmental movement has abandoned its original worthy mandate. Instead, its leaders are going for sheer power and in doing so, they are going for the throat of this country by undermining one of its most basic and cherished constitutional rights, that of private property.

Among other topics, this column will deal with the injustices brought about by an errant environmental movement. Because environmental organizations are funded to a great extent by the taxpayer, they should be subject to at least the same scrutiny as, say, funeral homes. Like the *American Way of Death*, the **American Way of Preservation deserves a closer look.**

THE
NATIONAL
INHOLDER
NEWS

THE
NATIONAL
INHOLDER
NEWS

A VOICE IN THE WILDERNESS

-By Paula Walling-

MINORITY STATUS FOR INHOLDERS

mi•nor•i•ty n. ***often attrib*** **1a: the period before attainment of a majority b: the state of being a legal minor 2: the smaller in number of two groups constituting a whole;** *specif:* **a group having less than the number of votes necessary for control 3: a part of a population differing from others in some characteristics and often subjected to differential treatment.**

If you are an inholder, you are a legitimate minority. While only a few inholders meet all three of the above definitions, we all meet the second and third. That official status should instill in each of us the courage necessary to make our needs known to the rest of society--the majority, the urban dwellers. Rural Americans in general, and inholders in particular, certainly lack the *"number of votes necessary for control."* And we are *"often subjected to differential treatment."*

> ***"Only changes in our laws--at the federal, state and local levels--can bring about the gains made by other minorities."***

Only changes in our laws--at the federal, state and local levels--can bring about the gains made by other minorities. Clearly, our civil rights are being violated. We need to press legislators to amend the Civil Rights Act to forbid discrimination not only on the basis of *"race, creed and national origin"* but on the basis of *"geographical location"* as well. Discrimination against inholders will only cease when laws, as well as minds, are changed. We must draw up and support legal language to protect our homes from destruction and our families from trauma.

We may not have burning crosses placed on our lawns, but we do have to watch helplessly as our homes are burned or bulldozed--by our own government. We are the victims of environmental bigotry.

We may never have been forced to ride in the backseat of a bus, but we are continually forced into the backseat when the numerous commissions, committees and coalitions make their plans for our lives--at hearings where no one is heard.

We may never have suffered the indignity of being required to drink at a separate drinking fountain, but we have suffered the frustration of having our water systems tampered with, cut off, and confiscated--by various governmental agencies.

We endure the nightmare of discrimination, and for doing so, we may perhaps have a deeper understanding of the human condition as well as a more thorough understanding of the law. But at what price?

If inholders are to stop being pawns in the land use chess game, we must mobilize and move to change the rules, or be pushed off ~~one~~ first chessboard, then another -by corporate kings who command their platoons of environmental knights, bureaucratic bishops and legal rooks.

To keep further abuses in check, we must first work to uncover the strategies of the park promoters. But most important, we must initiate positive and aggressive national and statewide strategies of our own.

As with David and Goliath, when you are small, you must aim well.

Viewpoints

Wavefront

National Parks Endangered By Environmental Overkill

by Paula Walling

When I was a child, it was possible to memorize all the national parks. People considered each one extraordinary. In a child's consciousness, these parks represented the Seven Wonders of the World (plus several). There was little doubt in any park visitor's mind why that particular part of the earth was singled out as being special.

As my own years grew in number, so did national parks—and national other things such as seashores, recreation areas, monuments, landmarks, etc. Today it is doubtful whether even the most dedicated Park Service employee could list the parks, let alone the numerous other designations.

I remember the summer we visited Yellowstone National Park and the Grand Tetons. The next time we returned, it was Grand Tetons National Park—but I was never sure *why*. Certainly the stark snow-capped peaks were beautiful, but so were a lot of others. I wondered what it was about the place I was missing, what natural wonder lay hidden in the mountains. I knew nothing of Rockefeller, nothing of the enormous economic ecosystem, the grandious planning process all with the pretense of public input, the Madison Avenue poster and postcard advertising that accompanies national parks.

Not until I was grown and came to our Big Sur doorstep did I begin to have some idea what—other than beauty—makes a park. I learned that parks, for some people, make a great deal of money; that that is the main secret of their proliferation, though not the only secret.

While parks make money for specific individuals and corporations, they are for the average taxpayer an enormous drain. While they may regenerate the spirit of some who visit them, others may have quietly had their lives torn apart and lost everything they cared about so that a seldom used trail or an overused parking lot might be built. While some seek sanctuary in the parks, others find park conditions, particularly in the summer, roughly equivalent to the cities. Overcrowding, violent crime, water and air pollution and safety hazards abound in the national parks. There is a reason for this unfortunate and unnecessary degeneration of the traditional "legitimate" parks: excess. Some of the excess is due to Park Service and large corporate concessionaire advertising. Such unbridled advertising invites overcrowding. But the main problem with the old parks, the legitimate ones, such as Yellowstone, Yosemite, Grand Canyon is that the environmental movement itself has spawned so many new parks that the system cannot adequately take care of its original ones.

Private land acquisition has for over 20 years had priority over public land maintenance. The result for the older parks has been devastating. No park legislation ought to be passed on any level of government unless proper maintenance funding is written in at the same time.

Land acquisition policy has been as detrimental to the country's economy as it has to rural American culture. As Kenny Melville, Sr., put it: "We're park poor *now*!" Melville is the 83-year-old Big Sur miner who became something of an overnight local folk hero when it appeared the forest service intended to burn the best of the cabins on his mining claim (a claim which has been in litigation since 1933).

"Disposable" Environmentalism

It should soon become clear to any self-respecting environmentalist that the loss of a home in such a totally unsalvageable manner is in itself an environmentally unsound practice, that obviously the person whose home is so destroyed will require further use of the earth's resources to rebuild one elsewhere. This archaic, myopic, misguided brand of "environmentalism" is thankfully being reevaluated by the Reagan administration. The practice is sure to be found wanting. Tens of thousands of homes have been destroyed in this way in the last quarter century, and the practice has particularly escalated during the last decade. The mood of the 80s is clearly not receptive to this kind of abuse and waste. We cannot afford this "disposable" brand of environmentalism to endure.

Environmentalists are going to have to learn to recycle something more substantial than bottles and cans or they will soon lose credibility even among their own membership—particularly if they continue to advocate large scale land acquisition by federal and state agencies, land acquisition which inevitably results in the needless dismantling and/or burning of perfectly fine homes. For aside from the environmental hypocrisy of recycling everything under the sun while sacrificing highly valuable building materials, serious human rights issues have surfaced. Constitutional rights are allegedly being violated in federal park and forest areas. Some people who live in such areas even feel that they are not even protected from "cruel and unusual punishment."

While coastal residents may opposed Secretary Watt's reevaluation of oil leasing, they may regard his reevaluation of land acquisition policy as environmentally sound. Cutting and redirecting acquisition funds seems to be the only way citizens can afford to preserve the long-established parks. Maintenance of these treasures will certainly be impossible if 90 percent of park and forest service funds continue to go toward buying and destroying homes.

Paula Walling

P.O. Box 7 • BIG SUR • CALIFORNIA 93920 • TELEPHONE (408) 667-2223

July 24, 1985

Letters Editor
Newsweek
444 Madison Ave.
New York, N.Y. 10022

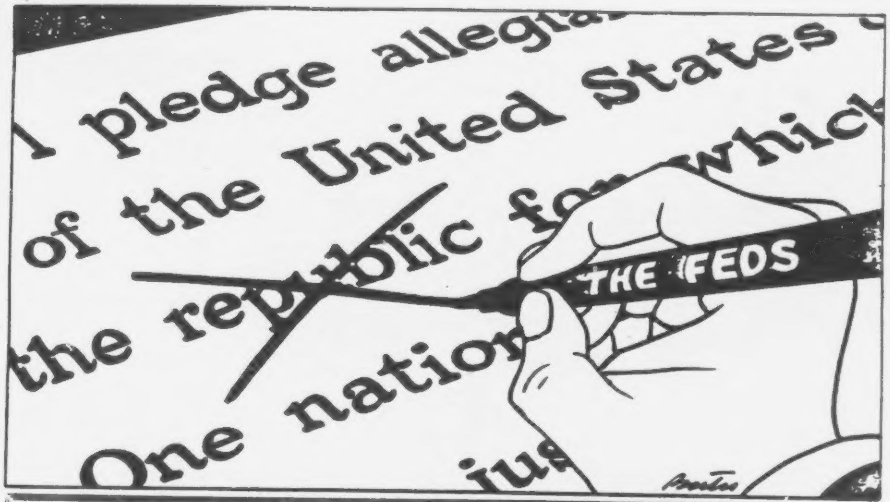
Dear Editor,

"Preservation" has turned to persecution, "conservation" to confiscation. If the government continues to trample the constitutional and civil rights of inholders and other rural Americans, it will not be long before urban dwellers see their own rights radically violated. Environmental leaders suffer from wilderness-of-the-mind if they think that the US Government can protect land better than local citizens. Stop federal and state land acquisition. It robs budget funds from the needy. It creates park-boundary gerrymandering for corporate gain and political power. And it "saves" nothing for this or any generation.

Sincerely,

Paula Walling

Paula Walling



Editorial: *Where Is Big Sur? A Bill of Rights for Tourists*

If one were to be asked what it is that makes the people of Big Sur think they can be their own environmentalists, and what single best proof they could offer the rest of the world that they intend to keep Big Sur as it is today, that question would best be answered with another question, the decades old query of the tourist: "Where is Big Sur?"

That people ask that question summer after summer, some on the airplane going home after having driven the length of the coast, should tell the world (and reassure any doubts we have about our own preservation abilities) that all is well with the Big Sur Coast itself.

That we are serious about our right and intention and responsibility to continue this fine record is apparent by the recent actions of coastal residents; the incessant well attended meetings and the proof, by petition, that you could get this many hard-headed individualists to agree to anything. But they do agree: "No further federal intervention or involvement in Big Sur!"

In few if any places would fed-lovers vs. dyed-in-the-wool locals find the energy, talent and resources to mount the extraordinary campaigns that promise to take place in the next few months the ones that now consume the energy of the vast majority of Big Sur residents. No land in the world could be more worthy of such love.

This is an issue in which no one says, "I don't care," though a few extraordinarily talented ones simply say, "I must be left alone to work." Their energy indeed should not be dissipated by such a battle. Nevertheless, it is for their right (as well as our own) to even say that, that we engage in such hot debate day after day.

By now we all know what we residents stand to lose should the bureaucrats continue their divide-and-conquer techniques within the Big Sur community. Many of us are in a state of pre-mature mourning at the threat of the loss of such a free, happy, unpolluted existence.

So as not to become too self-centered, it would be good for us then to reflect on what the tourist along the coast stands to lose if the federal government squeezes the last breath of individuality from local citizens. Certainly if this happens, the rights of the tourist will be similarly suffocated.

Three to four times our present traffic in three to five years can be anticipated if we become a "national must." This would mean absolute control of highway use. (Without a national designation, federal proponents estimate that highway traffic "may double in 25 years.")

The Scenic Area concept, a watered down (for the moment) National Park means intense federal regulation and regimentation of tourists. Massive forced busing would be a requirement on once free Highway 1.

Is an interminable winding bus ride what every tourist really wants? What about their rights? Visitors to Big Sur have rights, too; and those rights as well as our own need protecting. After all, if the Park Service held true to form, within 25 years we might only be tourists ourselves. A sense of heritage and community — a social sense — is totally lacking in the National Park Service; and behind the scenes, work will be done to carry out the original National Park plan, rest assured. But whether it succeeds or not, the "National-Something-or-Other" as Park Service Director Bill Whalen called it, will signal an intense rise in traffic and an equivalent decline in visitor freedom.

While the following Bill of Rights may not be "self-evident" or the same for any two people, these rights nevertheless exist now, and we feel each one and all of them on your own list are well worth preserving:

- The right to still have your own car with you when you get to the end of the highway.
- Similarly, the right *not* to have to go back over the same road to get it.
- The right to stop at a turnout and look for a whale or a sea otter until you see one — not just until the bus pulls away.
- The right to roll your window down.
- The right to see the scenery without tinted green tree tops and sky.
- The right to bring your ice chest and partake of its contents when and where you choose.
- The right to an occasional gulp of unfluoridated, unchlorinated water.
- The right to see a sunset and await the moonrise.
- The right to more leisure without concern for time or place.
- The right to bring along more than you need and stay longer than you planned.
- The right to change your mind and go back.
- The right not to consider Big Sur a "must."
- The right to stop if your child is carsick.
- The right to be rescued by helicopter if necessary (the Park Service forbids the use of helicopters).
- The long established right to free volunteer ambulance service by trained emergency medical technicians should, heaven forbid, you ever need it.
- The right to bring your pet along.
- The right to learn about poison oak from first hand experience.
- The right to learn about raccoons and where to put your food next time — without being handed a pamphlet on the subject (printed at government expense, of course).
- The right to go to another campground, restaurant, motel, gas station, gallery or shop if you did not like the management or products at the last one.
- Likewise, the right to return to the same one again and again if you did.
- The right to return 20 years later — as someone just did — and say, "Not much has changed."
- The right to stop and photograph a scenic moment in time that no one will ever quite see again on this ever-changing coast.
- The right to change radio stations or tapes — or hear nothing at all.
- The right not to hear a bus driver for 90 miles.
- The right to use your glider if you have the nerve and skill.
- The right to a relaxed pace.
- The right to sketch or paint without worrying about missing the last bus.
- Also, to read Jeffers and Eric Barker in the same peace and freedom that inspired them to write in the first place (where is Yosemite's poetry?)
- The right to write — in the same unregimented setting former writers have known.
- The right to stop for rainbows.
- The right to privacy.
- The right to pull over or slow down to avoid diesel fumes.
- The right to discover ... on your own.
- The right to eat a wild strawberry or fresh watercress.
- The right to see a scenic area without a big brown metal sign telling you it IS one.
- The right to a home-cooked or better-than-home-cooked meal, not just some concessionnaire-as 'ine bill of fare.
- The right to personal, not institutional, service.
- The right to visit with people who have lived a substantial portion of their lives nearby and can answer questions without giving a memorized lecture.
- The right to hear baroque music at meal time (a tradition originally set by Helmuth Deetjen at his Big Sur Inn that has spread to almost every restaurant and busines son the coast). Elevator music by Musak has no place on this glorious coast.
- The right to any and every legal pursuit of happiness you cannot find in the cities or organized parks.
- The right to come back so often you feel like a local.
- The right to be a local — if you can put up with the mountain of inconveniences, the lack of housing, high prices, government intrusion and other innumerable impediments to coastal survival.
- The right to ask during or after your 90-mile drive, "Where is Big Sur?"

Views and Viewpoints

Editorial

Will Big Sur's History Survive?

History, unless it is rewritten by a regime with its own ax to grind, comes about through individual and group interaction. Where no such interaction exists, history, except for geological history, doesn't either.

Archaeology obviously relies on the former existence of such interaction. Unless we were to establish our own cemetery, we can never be part of Big Sur's archaeology (only the Esselens and early settlers can). It is even difficult to get your ashes buried here, impossible if your acreage is small. Alas, it is hard to care whether we are ever to be candidates for a dig.

But social history is another matter. We are history, each of us. Our polarities, often petty, form the stuff of which history is made.

It is sad to think that we could see Big Sur's colorful history come to an abrupt end in a single generation. But it is possible.

When government takes over land, history, except for press releases, ends. Nationalization of scenic land may (or may not) protect the landscape, but it heralds the destruction of a valuable human resource, its history.

To quote one prominent resident speaking of the families who have occupied this unique area since birth: "They are not bears. They don't belong in a zoo!" The National Park Service does relegate human beings to zoo status. It allows us to live out our lives in captivity—or to move and sell out to the lowest bidder, the government.

There appears to be a trend in government to take over, through state, federal or private trust to be held for the state or federal, all land that is not flat. It is a trend that will relieve future generations of a great deal of interesting history.

Consider Big Sur's history. It certainly involves use of the land few people would condone today: clear-cutting of redwoods and tan-bark oak, mining of lime and gold, the senseless massacre of sea otters. Yet with all that, neo-history buffs abound. The new Big Sur Historical Society has many followers both inside the community and out. People are wanting and needing to know their roots. Carl Sandburg said, "It's important for us to know where we came from and what brought us along."

Had Big Sur been nationalised at some point early in its history, there would be simply nothing to record. It is of no interest to anyone in the course of human events which rangers occupied which parks or how many visitors they entertained. It is hard to take a transient of any sort seriously.

Much as we may like its individuals and wish time and again they could stay, the park and forest service have to make vagabonds of their employees—otherwise they would have a park. Thus park promotions depend not only on testing, but on transfers, rightly assuming that most everyone wants to seek promotion.

Untidy though it may be, history is made of people, people who agree and disagree, and without them we are without history. This resilient land and its people (only the hardy ones) have thrived together and will, I hope, continue to do so far into the planet's future.

Parks want history-under-glass, without the lively debates that made that history in the first place. So long as debate is alive and well in Big Sur, history will remain so. Once various governmental agencies and foundations begin their pickling process in an area, history will be on its way out.

So when someone asks about our heritage, be sure they plan to nurture it and not embalm it.

Paula Anita Walling

P.O. Box 7 • BIG SUR • CALIFORNIA 93920 • TELEPHONE (408) 667-2223

Big Sur Coalition

BIG SUR, CALIFORNIA 93920

WHEREAS, Senator Pete Wilson and Senator Alan Cranston have introduced legislation which would create a "Big Sur National Forest Scenic Area", which would be administered by the Secretary of Agriculture; and

WHEREAS, neither Senator sought input from any of the elected or appointed officials who represent the area; and

WHEREAS, community groups were not notified of the intent of either Senator to introduce legislation which would have a direct and deleterious effect on thier lives and property; and

WHEREAS, this legislation, if adopted, would jeopardize the historic working balance of federal, state and local stewardship of the land and resources along the Big Sur Coast; and

WHEREAS, the uniqueness of this coastal community depends upon this continued balance; and

WHEREAS, the present Big Sur visitor experience so cherished by city dwellers would be drastically altered by aggressive federal ownership, management and control of the coast; and

WHEREAS, a single corporate entity usually owns the facilities and largely regulates the visitor experience in federally managed areas; and

WHEREAS, such regimentation would diminish the diversity of experience now enjoyed by visitors from all parts of the world; and

WHEREAS, the neighboring coastal communities would suffer from an increase in traffic, litter, crime and fire danger so common to ajacent communities near other federal areas, and

WHEREAS, state and local funds are sufficient to meet the stringent goals and objectives of the state-mandated Local Coastal Plan; and

WHEREAS, this bill has been misrepresented as supporting the LCP, when in fact the bill would negate the Plan and make a mockery of ten years of dedicated local planning by citizen groups and elected officials; and

2-Big Sur Coalition Resolution 6-29-86

WHEREAS, the US Forest Service practice of buying, burning and bulldozing existing homes is an environmentally unsound practice which should be halted nationwide; and

WHEREAS, the individuals repeatedly involved in encouraging this legislation are suspected to have less-than-altrustic motives; and

WHEREAS, the community volunteer ambulance service and fire brigades have served tourists and residents alike whitout expending government funds; and

WHEREAS, the ability to survive the many hardships in this harsh coastal environment requires a spirit of self-determination, cooperation and pioneering, all of which necessitate that local planning remain intact; and

WHEREAS, the bill before you (S. 2159) is at best written carelessly and in great haste, and represents an unwanted intrusion into local affairs, as well as a needless appropriation of federal funds;

NOW, THEREFORE, BE IT RESOLVED by the Big Sur Coalition, Big Sur, California, that we hereby declare our total opposition to the Wilson-Cranston bill to create a "Big Sur National Forest Scenic Area" (S. 2159). **BE IT FURTHER RESOLVED** that no federal legislation is needed to continue the long-established practices of land protection on the Big Sur Coast. The Coalition therefore authorizes its Co-Chair to forward this resolution to Senators Wilson and Cranston, other members of Congress and to President Reagan.

Passed and adopted on this 29th day of June, 1986.

Paula Walling

Paula Walling, Co-Chair

Senator HECHT. Thank you very much.

Mr. Carver.

STATEMENT OF ROBERT CARVER, PRESIDENT, BIG SUR DEFENSE FUND, CARMEL, CA

Mr. CARVER. Good morning. With all due respect to Orson Welles, former Big Sur regular, may I present to you the War of the Words, a contrast between the status quo and the future, in post S. 2159.

Regarding stewardship: We now have the individual; we would have the bureaucrat. We now have the citizen; we would end up with big government. We now have the pioneer steward; we would have the greenhorn. The volunteer becomes the employee.

Regarding relative importance: We have the immediate and the distant. The difference here is akin to having the catcher try to catch balls hit to the centerfielder.

Senators, ask yourselves, how important is this to you, relative to other issues in your States and more pressing national and international problems?

Compare this to the efforts of the Big Sur citizenry and supporters who have not only come 3,000 miles to this hearing, but have also contributed over $100,000 in nickels and dimes and countless thousands of hours to the development of the strictest land use plan in the free world and the repulsion of seven threats of federally induced publicity and development increases in the name of preservation.

We now have the goose that laid the golden egg. We are scared of having Donald Duck and Disneyland. We have the real; the enhanced is proposed. We have the natural compared to the artificial.

The visitor experience is now free; it would become regimented. The area is balanced; it would become unbalanced. It is unique; it would become standardized. It is preserved; it would become developed. It is being finessed; it would be clobbered. It is protected; it would be ruined. It is beautiful; I think it would still be beautiful. We have berms and sod roofs; we would end up with toilets and parking lots. We have conservation; we would be faced with confiscation. We live for it; we will die for it. Save; pave. Tax generation; tax deficit. Priceless yet affordable or a subsidy you cannot afford.

In closing, this bill does not have the bull by the horns, but rather by the tail. The only good thing when you have this grip is that it is easier to let go.

I urge Congress to let go of this bull—bill, excuse me. [Laughter.]

[The prepared statement of Mr. Carver follows:]

Testimony of Robert Carver In Opposition To Big Sur National Forest Scenic Area Act- SB 2159

July 29, 1986

Robert Carver:

President; Big Sur Defense Fund

Board Member; Coast Property Owners Association of Big Sur

Board Member, Volunteer Fireman, and Medical Technician; Mid-Coast Fire Brigade, Big Sur

Member; Highlands/Bixby (Northern Big Sur and Carmel Highlands) Advisory
Committee to the Monterey County Planning Commission

There are many disturbing aspects of this controversial bill, yet time constraints limit the focus to a single perspective.

With all due respect to Orson Wells, former Big Sur regular, may I present "The War Of The Words" - A contrast between the status quo and the future, Post SB 2159.

Regarding Stewardship:	Individual	Bureaucrat
	Citizen	BIG Government
	Pioneer	Greenhorn
	Volunteer	Employee
Regarding Relative Importance:	Immediate	Distant

Senators, ask yourselves, how important is this to you- relative to other issues in your states and more pressing national and international problems?

Compare this to the efforts of the Big Sur citizenry and supporters who have not only come 3,000 miles to this hearing, but have also contributed over $100,00 in nickles and dimes and countless thousands of hours to the development of the strictest land use plan in the free world and the repulsion of seven threats of federally induced publicity and development increases in the name of preservation.

Now:	The Goose That Laid The Golden Egg	Donald Duck and Disneyland
	Real	"Enhanced"
	Natural	Artificial
Visitor Experience:	Free	Regimented
	Balanced	Unbalanced
	Unique	Standardized
	Preserved	Developed
	Finessed	Clobbered
	Protected	Ruined
	Beautiful	Beautiful?
	Berms & Sod Roofs	Toilets in Parking Lots
	Conservation	Confiscation
	Save	Pave
	Tax Generation	Tax Defecit
	Priceless yet affordable	A Subsidy you can't afford

In Closing:

This bill does not have the bull by the horns - but rather - by the tail.
The only good thing when you have this grip is that it is easier to let go.

I urge Congress to let go of this bill.

Big Sur Bulletin

Published by The Big Sur Defense Fund • P.O. Box 3702, Carmel, California • June 1984

Big Sur Land Use Plan Approved by Board

The Monterey County Board of Supervisors adopted the latest version of the Big Sur Coast Land Use Plan (LUP) on April 10, 1984. The California Coastal Commission will soon be meeting to consider this LUP for certification. Once certified, the LUP will become "The Plan" for Big Sur, and will govern all county and state policies affecting the entire area, its residents and property owners. Because of the effect this plan will have on us all, it is important we make ourselves aware of what it says.

Here are some highlights. Page and section numbers are footnoted and refer to the April 1984 version of the Big Sur Coast Land Use Plan, available from the Monterey County Planning Department.

Trails

This Plan calls for a trail system throughout Big Sur to be developed by the county for the state and federal government. This will be accomplished by requiring trail easements (50 to 100+ feet wide) from landowners as a condition for the issuance of any permits or approvals from the county.[1] Scenic viewpoints will be established along this trail system.[2] All areas within sight of these viewpoints may be considered to be within the "Critical Viewshed."[3] This would greatly expand the Critical Viewshed area. Any property totally within the Critical Viewshed will be considered "environmentally inappropriate for development." In other words, visible property would effectively be condemned.[4] The Plan places no limit on the extent or location of this trail system, and the trails map included in the Plan deliberately excludes showing those trails which "may pose problems with respect to acquiring rights-of-way or conflict with private land use."[5]

Transfer of Development Credit System

When the government takes private property, or when governmental policies prevent its use (as do policies in the Big Sur Land Use Plan), the U.S. Constitution provides that the person who has lost the property must receive "just compensation." The Big Sur Land Use Plan provides that the owners of land which will be rendered unusable by LUP policies may be given what are called Transfer of Development Credits (TDC's) in lieu of monetary compensation.[6] In other words, Transfer of Development Credit Certificates rather than money may be traded for condemned building sites. It is important to understand that a TDC system **separates** a landowner's right to build from the property itself. Thus, a Certificate of Development Credit may be used to gain the right to build on a different property. Or the Credit may be sold to another individual to increase the building potential on his property. Because the landowner retains the right to build somewhere else, represented by the Development Credit, and retains the land, though it must be placed in scenic easement and becomes essentially unusable, proponents argue that nothing has been taken and no compensation other than the TDC is required. It appears that this system will be used throughout Big Sur to "compensate" property owners who have lost the use of their land due to LUP policies. Under the proposed system, all condemned building sites, regardless of nature or size, will be eligible for two TDC's.

There are serious questions about the practical workability of TDC systems. There is no TDC system, similar to the one proposed for Big Sur, which has proven to be effective or fair. They appear to be designed to allow government to circumvent its obligation to provide just compensation when property is taken.

Will Children Have A Place On The Big Sur Coast?

Big Sur Land Use Plan Approved By Board

cont. from front page

Resource Constraint Areas/Restoration Areas

In April of 1984, without public hearing, the concept of "Resource Constraint Areas" was introduced into the Plan and approved by the County Board of Supervisors. This policy designated major portions of the residential areas in Big Sur, "Resource Constraint Areas." These areas included Garrapata Canyon, Palo Colorado Canyon, Green Ridge, Long Ridge, Bixby Canyon, Sycamore Canyon, Pfeiffer Ridge, Coastlands, Partington Ridge, and surrounding areas.

In these areas, the policy called for restricting development to parcels forty acres or larger. Smaller parcels would have to have been merged with others to attain a 40-acre minimum or abandoned.

Because of the controversy this caused, and because of the awareness of the confiscatory nature of the entire Plan that it was generating in the people of Big Sur, the language was removed. Though the language was removed, the concept which fostered "Resource Constraint Areas" is still alive and well within the Plan in the form of "Restoration Areas." "Restoration Areas" are also likely to include a large portion of the residential lands in Big Sur, and impose similar controls on land use as were attempted with "Resource Constraint Areas."[7]

Careful study of these and other policies of the LUP suggests that land use problems are overstated to justify highly restrictive solutions. It seems these Land Use policies are based on the assumption that private property, other than large-scale corporate developments, is not appropriate in Big Sur.

Large-Scale Development

While the Land Use Plan contains an abundance of sweeping language describing how the scenic beauty and small-scale rural character of Big Sur must be preserved, interestingly, specific policies of the Plan directly contradict these noble philosophies and goals.

For example, the Plan states, "All new development should remain within the small-scale, traditional and rural values of the area, rather than to introduce new or conflicting uses",[8] and further states, "The number of visitor-serving lodging units on any one site shall be limited to 60, reflecting the small-scale character of the special Big Sur community."[9]

Clearly these policies would seem to preclude a large-scale hotel complex. Nevertheless, elsewhere in the Plan we read, "The El Sur Ranch has a development potential consisting of a restaurant in the Little Sur area, a 100-room inn complex with a restaurant and accessory uses west of Highway One and generally opposite Dairy Barn Canyon, and 51-98 residential units in clusters in the interior portion of the Ranch."[10]

Another policy in the Plan makes exception in the Critical Viewshed policies for parking lots and "support facilities" connected with the State Parks System.[11]

Another policy appears to remove the cap on additional hotel rooms permitted in Big Sur by permitting conversion of building potential from residential units to "visitor-serving units."[12]

These policies are justified by Coastal staff by interpreting the Coastal Act as mandating the development of tourist facilities within the Coastal Zone. In reality, the Coastal Act calls for a balance between preserving the coast's ecological balance, providing facilities for visitors, and supporting the rights of property owners.[13]

Federal Bill

Representative Leon Panetta has stated that he is waiting for the Big Sur Land Use Plan to be finalized before considering the introduction of another bill to create a Big Sur federal recreation area. He has also stated that anything done at the federal level ought to coincide with local plans for the area.[14] Because the LUP has undergone local public hearings, by incorporating the Big Sur Land Use Plan into his federal bill, Mr. Panetta could argue that his plan represents the wishes of local residents. Only by clearly demonstrating that a majority of the people of Big Sur are opposed to the present LUP can this possibility be eliminated.

Now Is the Time to Act

The Board of Supervisors have shown a marked indifference to input from many of the people of Big Sur. The Plan contains policies which adversely affect the quality of the Big Sur environment as well as property owners and residents. Now is the time for the people of Big Sur to organize. We must ensure that the plans being made for Big Sur are plans both we and the land can live with.

Here is what is being done:

1) An organization has been formed, the Big Sur Defense Fund, to help coordinate and finance this effort.
2) Legal counsel has been retained to consider: (1) filing an

Rob Carver Addresses Residents and Property Owners at Big Sur Meeting

Photo: Paula Anita Walling

injunction against the Plan based on procedural violations by the county, (2) filing a class-action damage suit based upon the Plan's confiscatory policies, and (3) initiating precedent-setting litigation as the need arises.

3) A petition is being circulated to demonstrate that the people of Big Sur do NOT support the Land Use Plan as approved by the County.

Here is what you can do:

1) Support the Big Sur Defense Fund. We need you as a member. We need your donations. The success of this effort is totally dependent upon your active support.
2) Sign, circulate, and return the attached petition.
3) Fill out the attached forms requesting materials on the Big Sur Land Use Plan and mail them to the Coastal Commission and Monterey County. Study the information they send you. Attend the hearings; voice your opinion.
4) Write: the county supervisors, state and federal representatives, the governor, newspapers, and the Coastal Commission.
5) Spread the word. Discuss this with your friends and neighbors.

Attorney Sherman Stacey Advises Coastal Clients

Proposed Changes

Most of the problems with the Plan can be corrected with simple and straightforward changes. For example:

1) The trail system may be made acceptable by: a) clearly stating that land shall not be included within the "Critical Viewshed" simply because it can be seen from trails and/or viewpoints along them; b) reducing the width of trail easements to some reasonable figure, i.e., 10-15 feet; c) mandating a liability agreement be included in all trail easements which will hold the appropriate government agency responsible for any injuries resulting from the trails use; and d) providing that trail easements shall be granted voluntarily and shall not be required except as a condition for major visitor serving development permits.

2) The TDC system may be made acceptable by: a) making acceptance of TDC's in lieu of cash compensation a voluntary decision on the part of the landowner. *If TDC's offer "fair and real opportunities"[15] to property owners as stated in the Plan, the program will succeed with voluntary participation,* and b) modifying the "Critical Viewshed" policies to permit structures on private lands where they can be screened from sight without obstructing views of the ocean. *This has already been done to accommodate public development.[16] This change would not compromise any goals of the Plan; would allow owners to use their land; and would greatly relieve the burden of compensation perhaps to the point where a TDC system need not be considered at all.*

3) The concepts of Resource Constraint Areas/Restoration Areas may become acceptable if language is added to require: a) that prior to establishment of such areas the county will be required to demonstrate, with substantive data, that significant need for such an area exists; b) that boundaries of such areas will encompass only that area with the demonstrated problems; c) that the restrictions imposed within the area be essential to solve the demonstrated problems; and d) that owners of existing or pre-existing structures within such an area be permitted to rebuild in the event of a disaster.

4) Policies addressing the development of state and private visitor facilities should be brought into compliance with the philosophy and goals section of the Plan; in other words, the intent of the Plan to protect and preserve Big Sur vistas and rural character should not be subverted by state-endorsed facilities.

IMPORTANT: If you requested the County to notify you of hearings on the Big Sur Land Use Plan, or the Big Sur or Little Sur River Protected Waterway Management Plans, and you were *not* notified, it is important that you let us know.

If you requested copies of the above plans or related materials and they were not provided to you, this is also important for us to know.

Put the approximate date and nature of your unfulfilled request on a postcard or include it with the membership/pledge cutout and mail it to: The Big Sur Defense Fund, P.O. Box 3702, Carmel, CA 93921.

Please send us this information immediately. Be sure to include your name, address and phone.

THE BIG SUR DEFENSE FUND

The Big Sur Defense Fund is a non-profit grass roots organization with broad goals and purposes including the following: (1) to ensure the continued protection of the natural environment in Big Sur, (2) to educate and inform the general public, residents and property owners on issues affecting the Big Sur Coast, (3) to provide a means of funding precedent-setting litigation to ensure the maintenance of civil and property rights of individuals in the Big Sur area, and (4) to support the advancement of local representative government in Big Sur.

Footnotes

1) pg. 105, sec. 6.1.6.3; pg. 101, sec. 6.1.5.C.3&4
2) pg. 98, sec. 6.1.4.4
3) pg. 10, sec. 3.2.1; pg. 11, sec. 3.2.2.1
4) pg. 11, sec. 3.2.3.A.6
5) pg. 97, sec. 6.1.2, paragraph 9
6) pg. 16, sec. 3.2.6.3; pg. 114, sec. 7.2.7.D
7) pg. 66, sec. 5.1.1 paragraphs 1&2; pg. 93, sec. 5.4.3.P.1; pg. 112, sec. 7.2.4; pgs. 113-114, sec. 7.2.7
8) pg. 5, sec. 2.1, paragraph 3
9) pg. 92, sec. 5.4.2.9
10) pg. 92, sec. 5.4.3.N.1
11) pg. 14, sec. 3.2.5.E
12) pg. 76, sec. 5.3.3, paragraphs 2&3
13) California Coastal Act, sec. 30001.5(c)
14) The Carmel Pine Cone/CV Outlook, Oct. 13, 1983, pg. A-12
15) pg. 112, sec. 7.2.5.A
16) pg. 14, sec. 3.2.5.E

Section 3006, California Coastal Act

"The legislature futher finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation."

Letters to the Coastal Commission and state officials should stress that the current LUP does not have your support and should be returned to Monterey County so the entire plan may be opened for public hearings.

If you wish to send the Defense Fund a copy of your letters please address them to: Big Sur Defense Fund, P.O. Box 3702, Carmel, California 93921. This may well prove to be of value for future use.

WHY ARE WE CONCERNED?

Present planning for Big Sur is emphasizing the expansion and construction of new commercial hotels, restaurants, parking lots, and condominiums. Ironically this bias in the Plan has been largely due to influences during the process of writing the Plan by the California Coastal Commission, the California Coastal Conservancy, and other "conservation" groups. They interpret the Coastal Act as mandating the establishment of "visitor serving facilities"; i.e., hotels, restaurants, information centers, and gift shops; and "recreational facilities" such as recreational vehicle areas and developed park facilities. These state-sanctioned developments are given a "priority" in the Big Sur Coastal Area to the extent that they are specifically exempted from policies intended to preserve the views from Highway 1, preclude major development on the west side of the highway, and protect the rural character of Big Sur.

While large-scale development as outlined above is encouraged by the Plan, policies affecting the small property owners in Big Sur are often restrictive to the point of resulting in an outright taking of their property. People who wish to live where they will not be seen or disturb the views, where they will not be a burden on the land, are beginning to realize they may never fulfill their dreams. They are being told that the traffic capacity of the roads needs to be reserved for the planned crush of tourists who will make Big Sur their destination once the visitor developments are completed. This "problem" and others of similar nature appear to be intended to justify planning the small property owner out of Big Sur.

The Big Sur Coast Land Use Plan (LUP) is the main planning document for Big Sur. While it obviously has problems, many of its policies are sound and deserve support. Simple changes within the Plan would correct most, if not all, of its shortcomings.

The Plan is presently in the hands of the California Coastal Commission awaiting their approval. Once certified by the Commission, the needed changes will be extremely difficult, if not impossible, to make. We must convince the Coastal Commission that the LUP is not ready for approval and to return it to Monterey County for further work.

Governor
The Honorable George Deukmejian
Governor of California
State Capitol
Sacramento, California 95814

California Coastal Commission
701 Ocean Street
Room 310
Santa Cruz, California 95060

U.S. Representative
The Honorable Leon Panetta
California 16th District
339 Cannon House Office Building
Washington, D.C. 20515
or
Rodriquez Adobe, 380 Alvarado Street
Monterey, California 93940

State Senator
The Honorable Henry Mello
17th District, State Senate
Room 5108, State Capitol
Sacramento, California 95814
or
1200 Aguajito Road
Monterey, California 93940

State Assemblymen
The Honorable Eric Seastrand
29th District, State Assembly
Room 5136, State Capitol
Sacramento, California 95814

The Honorable Rusty Areias
25th District, State Assembly
Room 4139, State Capitol
Sacramento, California 95814

1st District Supervisor
Marc Del Piero
P.O. Box 787
Castroville, California 95012

2nd District Supervisor
Barbara Shipnuck
P.O. Box 1004
Salinas, California 93902

3rd District Supervisor
Dusan Petrovic
P.O. Box 946
King City, California 93903

4th District Supervisor
Michael Moore
1200 Aguajito Road
Monterey, California 93940

5th District Supervisor
William G. Peters
1200 Aguajito Road
Monterey, California 93940

A PETITION TO THE GOVERNOR AND THE STATE LEGISLATURE

We, the undersigned, do not support the Big Sur Coast Land Use Plan adopted by the Board of Supervisors of the County of Monterey on April 10, 1984.

WE find the policies of this plan are not supported by fact but by arbitrary opinions and suppositions and that policies of this plan threaten the very qualities of the Big Sur Coast that the Coastal Act is intended to protect.

WE further find the plan, intentionally or not, violates Federal and State Constitutional rights and guarantees, the Civil Rights Act and attempts circumvention of Proposition 13.

WE further find that certain confiscatory policies of the plan may have been predetermined by State, County and other entities and that planning procedures and methods leading to adoption of the Plan are in violation of laws governing Elements of General Plans as well as provisions of the Coastal Act and the Brown Act.

WE hereby petition the Governor and/or the Legislature of the State of California to cause the State Attorney General to investigate the procedures and methods leading to the preparation of this plan, and to prosecute any instances of willful political or civil misconduct.

WE hereby further petition the Governor and/or the Legislature of the State of California to cause the California Coastal Commission and the County of Monterey to honor the rights and needs of the Citizens of Big Sur in accordance with State and Federal Laws and, in the interest of guaranteeing public support as provided in the Coastal Act, to further cause the Coastal Commission to deny approval and/or certification of any Local Land Use Plan, Local Coastal Program or Implementation Plan if so petitioned by no less than fifty (50) per cent of the residents and/or property owners within any Local Coastal Plan Boundary.

Name-printed	Signature	Check here if you are a resident and/or property owner in Big Sur.	Address

Forward to: THE BIG SUR DEFENSE FUND
P.O. Box 3702
Carmel, California 93921

Senator WALLOP [presiding]. Thank you, Mr. Carver.

Senator Wilson.

Senator WILSON. Thank you, Mr. Chairman.

Mr. Caplin, do you and the people whom you represent support the Land Use Plan in light of all the comment this morning?

Mr. CAPLIN. We support the concept of the Land Use Plan. We have problems with some specific provisions. Would you like me to go into them?

Senator WILSON. We don't have time for that. You can just answer a question: Is it true, as has been reported to a staff member of mine, that after signing Congressman Panetta's letter earlier this year, that you appeared before the State coastal commission and stated your opposition to the Land Use Plan and threatened that, if necessary, you would go to court to fight it?

Mr. CAPLIN. I went before the California Coastal Commission and I told them that there were policies in the Local Coastal Plan that I thought were beyond the law and the Constitution, just as I have stated again that I think your bill is going beyond the Constitution here today, yes. When you propose to take someone's property without compensating them, Senator, wouldn't you agree that that might be a problem for some of the people who are involved?

Senator WILSON. Yes; I would. But I would also suggest to you that that is not particularly relevant here.

Mr. CAPLIN. Well, that is what I was speaking to the Coastal Commission about, Senator.

Senator WILSON. What I think is relevant is that the letter not only implied but explicitly stated support for the Land Use Plan without conditions.

Thank you, Mr. Chairman.

Mr. CAPLIN. Well, I would have to reread the letter to see if that is exactly how it was worded.

I have a question for you, Senator, if I might. I would like you to tell me the section within the U.S. Constitution that gives the U.S. Government the power to control land use in this country.

Senator WALLOP. I think that is not really at issue here between us today. That is something that is in the consideration of every committee as it moves. Clearly, we will examine that. And Senator Wilson is not even a member of the committee.

Mr. CAPLIN. Is there anyone in the room who can tell me that information?

Senator WALLOP. Certainly not me. I am not a lawyer. I have been accused of it, but so far I have escaped that fate.

Mr. CAPLIN. I would like to request on the record that I receive that information in writing. And that would be a wonderful thing. If you could have some member of the staff or whoever it is that considers such things——

Senator WALLOP. No; I do not think we would respond to that. It is something that we will consider in the process of the legislation. But let me assure you of one thing: The purpose for holding a hearing is to find out the feelings and the advice of the people of the country. Because we are holding a hearing does not mean that the bill will or will not pass. It is for us to develop some information, and hopefully that is what we have gained out of this process.

Mr. **Caplin**. In closing, I would just like to say that on the record I have requested that someone in the congressional staff submit to me the section of the Constitution that enables the U.S. Government to control land use in the United States, but that——

Senator **Wallop**. It is not the obligation of the Congress to submit those things. The court system exists for that if we overstep our bounds. And with the tax conference, I have plenty to do besides research the Constitution today. Those things will be considered in the process.

Thank you all very much.

Senator **Wilson**. Mr. Chairman, if he is not unwilling to provide it without a fee, Mr. Battaglia could give him the answer. [Laughter.]

Mr. **Battaglia**. Thank you, Senator.

Senator **Wilson**. Might I say, Mr. Chairman, that the answers given to the questions that were posed to Mr. Burroughs, of my staff, reflect my own point of view exactly. But I would suggest to Mr. Caplin that there is an enormous difference in importance between the preservation of Big Sur and the settlement of a spite fence dispute.

Senator **Wallop**. The next panel is Ms. Sherry Allen from San Simeon, Mr. Alan Perlmutter from Big Sur, Mr. Frank Trotter from Big Sur, Mr. Larry Putnam from Pebble Beach, and Mr. Roger Newell from Carmel.

Ms. Allen.

STATEMENT OF SHERRY ALLEN, SAN SIMEON, CA

Ms. **Allen**. My name is Sherry Allen. I am very suspicious of this bill, and you should be, too. This bill was thrown into the Energy and Natural Resources Committee without any consideration to the effect it will have on the surrounding communities. Any bill of this magnitude that will affect this many people has to have study and research done.

There is no environmental impact statement, there is no traffic load study, there is not even a boundary map that we have been able to see. Something this important needs time, not a hurried writing and a push through the Senate.

I am very suspicious because no one locally, the general public, or any elected or appointed official was consulted or notified that this bill was being written. I just heard of this legislation 8 weeks ago. Why the secrecy and why the rush to get this through Congress? There is no immediate threat of overdevelopment.

I am suspicious because this bill is very confusing to read and is very vague. The one concrete thing that I did get from the bill was that one man, the Secretary of Agriculture or his appointee, has total control over all decisions with no one to answer to: No definite boundaries, no checks, no balances. That is too much responsibility and too much power for one person.

This bill reads Big Sur now; could it be central coast next? The boundaries could be changed by administrative fiat.

Because of these suspicions and because of the nearness of those of us on the south coast to the land in question, the least that we want is for the Government to conduct local hearings. If this bill is passed, Morro Bay, Cambria, and San Simeon will become gateway cities to the Big Sur National Forest Scenic Area.

In fairness to all people affected by this bill, we should have local hearings and a study by the Government of the effect of this bill on us, on our property, on our businesses, and on our lifestyles.

I have concentrated my own research efforts on the gateway cities to the Federal areas. I have talked to many people who have lived in and near gateway cities and the descriptions are the same: Gas stations on every corner, hundreds of billboards advertising wild bears on chains, snake pits, alligator wrestling, water slides—as in Rapid City, SD. In West Yellowstone there is a motel room for every resident that lives in the town.

Visitorship in the federalized areas has in the past doubled, tripled, and quadrupled no matter what the name of the federalized area, whether it is a recreation area, scenic area, park service. The Blue Ridge Mountains, 6 million increase of visitorship in the last 10 years.

Can our gateway communities, our fragile highway, and our resources handle even a doubling of visitation within a relatively short period of time? We are not prepared for this, and we never will be.

This happened so fast and so secretly that anyone should be concerned. Isn't there a Federal procedure for doing environmental impact studies before deciding on a bill affecting one of nature's masterpieces?

Thank you.

[The prepared statement of Ms. Allen follows:]

Testimony by Sherry Allen at the Senate Sub-Committee Hearing on Senator Wilson's Bill (S. 2159) to Create the Big Sur National Forest Scenic Area

---

I'm very suspicious about this bill, and you should be too. This bill was thrown into the Energy and Natural Resources Committee without any consideration to the effect it will have on the surrounding communities. Any bill of this magnitude, that will affect this many people, has to have study and research done. There is no Environmental Impact Statement, there is no traffic load study, there is not even a boundary map that we have been able to see. Something this important needs time, not a hurried writing and a push through the Senate.

I'm very suspicious because no one locally, the general public, or any elected or appointed official was consulted or notified that this bill was being written. I just heard of this legislation 8 weeks ago. Not much time to prepare. Why the secrecy and why the rush to get this through Congress? There is no immediate threat of overdevelopment.

I'm suspicious because this bill is very confusing to read and is very vague. The one concrete thing that I did get from the bill was that one man, the Secretary of Agriculture or his appointee, has total control over all decisions with no one to answer to. No definite boundaries, no checks, no balances. That is not only reason for suspicion, that is dangerous. Are you willing to give that much power to one person, whoever that might be?

This bill reads Big Sur now; could it be Central Coast next? The boundaries could be changed by administrative fiat.

Because of these suspicions and because of the nearness of those of us on the South Coast to the land in question, the least that we want is for the government to conduct a local field hearing. If this bill is passed, Morro Bay, Cambria, and San Simeon will become gateway cities to the Big Sur National Forest Scenic Area. In fairness to all people affected by this bill, we should have local hearings and a study by the government of the effect of this bill on us, on our property, on our businesses, and on our lifestyles.

I've concentrated my own research efforts on the gateway cities to the federal areas. I've talked to many people who have lived in or near a gateway city and the descriptions were the same. Towns such as Rapid City, South Dakota, gateway to the Black Hills and Mount Rushmore; Pigeon Forge, Tennessee, gateway to the Great Smokey Mountains National Park (that's where Dollywood has been built); and Eastham and Wellfleet, Massachusetts, gateways to the Cape Cod National Seashore Area, all have similar descriptions: gas stations on every corner, hundreds of billboards advertising wild bears on chains, snake pits, alligator wrestling, water slides, wax museums of every kind. Is this environmental protection?

In West Yellowstone, a town devoted to serving visitors to Yellowstone Park, there is more than one motel room for every resident in the town and that's only counting those listed in the Triple-A guide! Cambria's population is almost 3,500. I can't imagine 3,500 plus motel rooms. Our towns and resources are not prepared for this!

Visitorship in the Federalized areas has in the past doubled, tripled, or quadrupled, often within five or ten years. I have some figures for you:

Golden Gate National Recreation Area	opened 1973	1974 - 702,00 visitors 1985 - 18.3 million
Point Reyes National Seashore	opened 1966	1967 - 521,000 visitors 1985 - 2 million
Chattahouchi River National Recreation Area -	opened 1978	1980 - 346,000 visitors 1985 - 1.5 million
Cayahoga Valley National Recreation Area -	opened 1974	1978 - 496,000 visitors 1985 - 1 million

Blue Ridge Mountains, which National Parks Director William Penn Mott compared Big Sur to last year, now has over 21 million visitors a year, an increase of 6 million in the last ten years.

Can our gateway communities, our fragile highway, and our resources handle even a doubling of visitation within a relatively short time period? With this rapid influx will come the same problems that we now have, only doubled, tripled, or quadrupled. That's two, three or four times the water demand, sewage disposal, trash, crime, and traffic accidents. We are not prepared for this, and we never will be.

Our area has a problem with excess campers and R.V.'s. This week while driving to San Simeon for my mail I counted campers - 65 - in a 15 mile stretch. These were all parked illegally, in dirt turnouts along the side of the highway. How could we possibly handle an increase?

Should something of this magnitude happen in our area without thought, planning, or our input and concern? Should something of this magnitude happen in our area without consultation or input from our local Boards of Supervisors, our State Senator, or our Assemblyman?

What about Highway One? It has not faired too well in the past four years, having collapsed in some places and covered by landslides in others. What will the increased traffic load do to it?

I could talk for hours about the possible ramifications of this bill, but none of these concerns have been addressed in the bill or in studies or research prior to the introduction of this bill. I ask again, why the rush?

At the very least our input deserves to be heard and we should not have had to come to Washington, D.C. to give it! Thousands of concerned people could not come.

This happened so fast and so secretly that anyone should be concerned. Isn't there a federal procedure for doing environmental impact studies before deciding on a bill affecting one of nature's masterpieces? And the neighbors of one of nature's masterpieces?

Senator **Wallop**. Thank you, Ms. Allen.
Mr. Perlmutter.

STATEMENT OF ALAN PERLMUTTER, BIG SUR, CA

Mr. **Perlmutter**. I am Alan Perlmutter. I live and work in Big Sur and I have been an active participant in the local land planning process for 8 years. I want to talk to you today about our democratic process, about government by the people and for the people.

You have already heard Senator Wilson mistakenly describe the need for this bill. As a note, Senator Wilson, specifically: I find nowhere in the bill any language that describes "weakening amendments" as the triggering mechanism for the Secretary to step into the private domain. According to the language of the bill, that is done entirely at the sole discretion of the Secretary on his determination of what is inconsistent with the plan.

You have already heard and will continue to hear overwhelming and unquestionable evidence to the contrary that this bill is not needed. There is evidence which points out that S. 2159 is redundant and that it covers ground clearly taken care of by local and State initiative, that it represents the real threat to the environment, that it rudely overrides State and local law, that it is a rehash of previously rejected attempts at federalization, and that it will destroy the very culture and beauty that it pretends to protect.

The evidence presented to you is clear: S. 2159 provides nothing but a headache and expense for the people of California. It certainly is not legislation designed for the people.

Well, then if it is not for the people, it must be by the people. There must be a groundswell of support out there. I am afraid now, however. It is quite to the contrary.

To my knowledge, there is not one person who has anything to do with Big Sur—a resident, a property owner, a person who works there—who supports this bill. It is quite interesting to note that of the four people who just spoke in favor of this bill, only one of the four even lives in California and that one of the spokesmen—I wish he was still in the room, Sandy Hillyer, who spoke for the Big Sur Foundation—spoke, I think, singularly, he was the only person who spoke in favor of the massive hotel development previously referred to today that we brought before the Coastal Commission and the Coastal Commission rejected.

Democratic and Republican organizations alike, professional planners, environmentalists, chambers of commerce oppose S. 2159. Thousands of tourists have voiced their opposition through the Old American petition process. Farmers, doctors, teachers, bankers, firemen, and motel operators and conservationists oppose this bill.

Even businessmen and women who stand to make the greatest financial gains are opposed to this on the grounds that it would destroy the very thing that we are all trying to protect.

Newspapers, large and small, from the Carmel Pine Cone and the San Luis Obispo Telegram to the San Francisco Examiner and Chronicle strongly oppose Mr. Wilson's bill.

The list of American citizens who urge you to set this legislation aside is endless. The message is clear; it comes from all quarters and cuts across political lines in an economic and environmental interest. The message is sensible; it is not backed only by emotion but by thoughtful and concerned judgment.

Senators, especially you, Senator Wilson, the people do not want this thing. I urge you to set it aside. If, on the other hand, you decide to persist in it and pass this bill through your committee, the message you will send to Americans all over the country will be an ominous one. The message that you send will be that the will and the initiative and the promise of American people acting in good faith and on solid constitutional principles is not as sound as the wisdom of Washington. You will be defying the very essence of our democratic process.

I urge you to leave us alone this time. Trust us. Listen to what the American people are saying. Trust the American process and let us go home finally.

Thank you.

[The prepared statement of Mr. Perlmutter follows:]

Statement by Alan Perlmutter
before the Subcommitteee on Public Lands, Reserved Water & Resource Conservtion - July 31, 1986

I am Alan Perlmutter - I live and work in Big Sur and have been an active participant in the local land planning process for eight years. I want to talk to you today about our democratic process - about government by the people and for the people.

You've already heard Senator Wilson mistakenly describe the need for his bill. You've already heard and will continue to hear overwhelming, and unquestionable evidence to the contrary - evidence which points out that S. 2159 is redundant - in that it covers ground already clearly taken care of by local and state initiative; evidence that S.2159 represents the real threat to the environment; that it rudely overides local and state law; that it is a rehash of previously rejected attempts at federalization; and that it will destroy the very culture and beauty and environmental wonder it pretends to protect.

The evidence presented to you is so clear - S.2159 provides nothing but a headache and expense for the people of California and the rest of the United States. It is certainly not legislation designed for the people.

Well then - if the bill is not for the people, it must at least be by the people. There is surely a groundswell of support out there. I'm afraid not. Quite the contrary. There is universal and damned near unanimous oppositon to Senator Wilson's ill-conceived legislation.

To my knowledge there is not one person who has anything to do with Big Sur - a resident - a property owner - a person who works there who supports this bill. All of the adjacent communities; towns, cities, counties, villages have publicly resosived to oppose this legislation. Other than our two senators, all of the elected representative affected by the legislation - mayors, county supervisors, state assemblymen and senators - Democrats and Republicans - strongly oppose this legislation. Most are insulted by Senator Wilson's cavalier intrusion (without any prior or even present consultation) and all resent the redundant override of local and state law.

Democratic and Republican organizations alike, professional planners, environmentalists, and chambers of commerce oppose S. 2159. Thousands and thousands of tourists have voiced their opposition through the "Old American" petition process. Farmers and doctors and teachers and bankers and firemen and motel operators and conservationists oppose the bill.

Even businessmen and women who stand to make the greatest financial gains if this bill were passed, oppose it on the grounds that their gains would come as the very beauty and spirit and life blood of Big Sur would be drained and lost; on the grounds that everything that is right about Big Sur- the awesome grandeur of Big Sur would be destroyed.

Newspapers large and small - from the Carmel Pine Cone and the San Luis Obispo Telegram Tribune to the San Francisco Examiner and Chronicle strongly oppose Mr. Wilson's bill.

The list of American citizens who urge you set this legislation aside is endless. The message to you is clear - it comes from all quarters and cuts across lines of political, economic and environmental interests. The message is sensible - backed not only by emotion but by thoughtful and concerned judgement. Senators, the people don't want this thing.

If you did, on the other hand, pass this bill through your committee, the message you would send to American citizens would be an ominous one. The message sent would be that the will - and initiative - and promise of American people acting in good faith and on solid constitutional principles is not as sound as the "wisdom of Washington". You will be defying the very essence of our democratic process.

I urge you gentlemen, turn this bill aside and show your support of government by the people - and for the people. Please gentlemen, this time listen to what the people are saying. "Leave us alone - trust us - trust the American process - let us go home".

FRIENDS OF THE BIG SUR COAST
BIG SUR, CALIFORNIA 93920

July 26, 1986

The following is a partial listing of governmental entities, organizations, elected representatives, and individuals who have declared their opposition to S. 2159 to date:

Big Sur Chamber of Commerce

Big Sur Coalition

Big Sur Coastal Partnership

Big Sur Grange #742

Big Sur Defense Fund

Bixby Property Owners Association

California Federation of Republican Women (Northern Division)

California Federation of Republican Women (Statewide)

California State Grange

Camaldolese Monks Immaculate Heart Hermitage

Cambria Chamber of Commerce

Cambria Community Service District

Cambria-San Simeon Republican Assembly

Carmel Highlands Association

Carmel Republican Women

Central Coast Motel Association

City of Carmel-by-the-Sea

City of Monterey

City of Morro Bay

City of Pacific Grove

(MORE)

The following is a partial listing of governmental entities, organizations, elected representatives, and individuals who have declared their opposition to S. 2159 to date - page two:

Coast Property Owners Association of Big Sur

Coastal Residents United, Inc.

County of Monterey

County of San Luis Obispo

Friends of the Big Sur Coast

Highlands-Bixby Advisory Committee to the Monterey County Planning Commission

Mal Paso Creek Property Owners Association

Mayor's Committee, Monterey County, composed of Mayors of the Cities of:

- Carmel
- Del Rey Oaks
- Gonzales
- Greenfield
- King City
- Marina
- Monterey
- Pacific Grove
- Salinas
- Sand City
- Seaside
- Soledad

Monterey County Democratic Central Committee

Monterey County Republican Central Committee

San Luis Obispo County Republican Central Committee

San Simeon Chamber of Commerce

Senator Sam Hayakawa - former U. S. Senator from California

Congressman Leon Panetta

Congressman William E. Dannemeyer

Congressman Robert J. Lagomarsino

Congressman Daniel E. Lungren

Congressman Ed Zschau, Republican Candidate for U. S. Senate

California State Senator Ken Maddy

California Assemblyman Eric Seastrand

Steve Donovan - President of Esalen Institute

Senator WALLOP. Thank you, Mr. Perlmutter.

Mr. Trotter.

STATEMENT OF FRANK TROTTER, BIG SUR, CA

Mr. TROTTER. Mr. Chairman. My name is Frank Trotter. I am not a public speaker——

Senator WALLOP. Could you please pass the microphone to him. Thank you.

Mr. TROTTER. Just knocked off my time, huh? [Laughter.]

Senator WALLOP. No; I am mean, but I am not that mean.

Mr. TROTTER. Mr. Chairman, my name is Frank Trotter. I am not a public speaker; therefore, it is very hard for me to put my feelings into words. Please bear with me and know that I am speaking to you from within.

I am 68 years old, a native of Big Sur, a grandson of the first pioneer family. I am a father, a grandfather, a farmer, and a retired contractor. I have worked with my hands all my life, worked hard. I own a home on a 5-acre plot, well almost. I have 4 years left on a mortgage that I have been paying on for 20 years.

I have tried to do my part for our community in that I have been a member of the Big Sur Grange since it formed in 1948 and served as master for 8 years. For 20 years I was a member of the Big Sur Volunteer Ambulance. I am a member of the Big Sur Volunteer Fire Brigade, a member of the board of directors of the Coast Property Owners Association and a member of the Big Sur Historical Society.

I have worked with my neighbors and with our local representatives for the last 15 years in planning for the preservation of the Big Sur coast, first as a member of the Coordinating Committee for Local Planning and then as a member of the Citizens Advisory Committee.

It is because Big Sur is my home, because I want my children and my grandchildren to be able to love and enjoy Big Sur as I have in my lifetime and because of my participation in the development of the local coastal plan that I am here today to oppose S. 2159.

In their bill, Senator Wilson and Senator Cranston say that the Big Sur coast represents the most spectacular meeting of undeveloped land and sea in the United States. They should read what they write and understand that it is that way because we, the people who live here, have kept it that way.

The bill says that now, in order to protect the existing character of the Big Sur, even though we have a local coastal plan, that we have to be federally managed, and yet, the U.S. Forest Service cannot take care of what it has now.

I have been told that the Los Padres National Forest is the second largest forest in the United States, made up of 1,900,000 acres. The Monterey Ranger District has 326,000 acres; the Ventana Wilderness 164,000 acres. Within this area is 395 miles of trail of which only 30 miles has been maintained this season for foot or horseback. Anyone can write a bill, but just because it is written does not mean it is going to solve any problems.

One of the biggest issues in Big Sur planning is the highway capacity. You cannot solve a problem by flying around in a helicopter over the road, then sitting in an office somewhere dreaming about it. You have to come down out of the sky, drive the highway, and experience the problem. You have to get out and walk the road and look at it. You have to do it in the winter and in the summer; in the dry years and in the wet ones. Then maybe you will understand the problem. It is then that you can work toward a solution. The highway is a key to keeping Big Sur this way, the way it is. In my opinion, it has to remain a vista drive, a passthrough for visitors. Big Sur cannot be a point of destination for everyone.

Thank you.

[The prepared statement of Mr. Trotter follows:]

SPEECH BEFORE THE U.S. SENATE SUB-COMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

JULY 31, 1986

Mr. Chairman:

My name is Frank Trotter. I am not a public speaker, therefore it is very hard for me to put my feelings into words. Please bear with me and know that I am speaking to you from within.

I am a 68 year old native of Big Sur; the grandson of the first pioneer family. I am a father, a grandfather, a farmer and a retired contractor. I have worked with my hands all my life - worked hard.

I own a home on a five acre plot - well, almost. I have four years left on a mortgage that I've been paying on for the last twenty years.

I have tried to do my part for our community in that I have been a member of the Big Sur Grange since it formed in 1948 and served as Master for eight years. For twenty years I was a member of the Big Sur Volunteer Ambulance. I am a member of the Big Sur Volunteer Fire Brigade, a member of the Board of Directors of the Coast Property Owners Association and a member of the Big Sur Historical Society. I have worked with my neighbors and with our local representatives for the last fifteen years in planning for the preservation of the Big Sur Coast - first as a member of the Coordinating Committee for Local Planning and then as a member of the Citizens Advisory Committee.

It is because Big Sur is my home, because I want my children and my grandchildren to be able to love and enjoy Big Sur as I have in my lifetime and because of my participation in the development of the Local Coastal Plan that I am here today to oppose Senate Bill 2159.

In their Bill, Senator Wilson and Senator Cranston say that the Big Sur Coast represents the most spectacular meeting of undeveloped land and sea in the United States. They should read what they write and understand that its that way because we, the people who live there, have kept it that way.

The Bill says that now, in order to protect the existing character of Big Sur, even though we have a Local Coastal Plan, that we have to be federally managed, and yet, the U.S. Forest Service can't take care of what it has now.

I've been told that the Los Padres National Forest is the second largest forest in the United States, made up of 1,963,249 acres. The Monterey Ranger District has 326,683 acres; the Ventana Wilderness 164,503 acres. Within this area is 395 miles of trail of which only 30 miles has been maintained this season for foot or horseback.

Anyone can write a bill but just because it is written doesn't mean that its going to solve any problems.

One of the biggest issues in Big Sur planning is the highway capacity. The highway is going to hell - it just can't take anymore. You can't solve the problem by flying around in a helicopter over the road then sitting in an office somewhere dreaming about it. You have to come down out of the sky, drive the highway and experience the frustrations. You have to get out and walk the road and look at it. You have to do it in the winter and in the summer; in dry years and in wet ones. Then, maybe, you will understand the problem. It is then that you can work toward a solution.

The highway is key to keeping Big Sur the way it is. In my opinion, it has to remain a vista drive - a pass-through for visitors. Big Sur can't be a point of destination for everyone.

We have worked very hard to develop a good plan for Big Sur. The Local Coastal Plan was made for this country, not for some other place - as unique to Big Sur as Big Sur is to the United States. It was made by people who live here and who understand the area. We're just asking to be left alone to let us carry out our plan.

In conclusion, I would like to read a letter written by the State Master of the Grange which I feel summarizes what it is that I am trying to say.

(read attached letter from Master David Austin)

Thank you.

DAVID L. AUSTIN,
MASTER

MARJORIE BROWN
SECRETARY

EXECUTIVE COMMITTEE
BOB CLOUSE
JOE VICTORINE
STEPHEN TAIT

CALIFORNIA STATE GRANGE

◆

OFFICE OF MASTER
2101 STOCKTON BLVD.
SACRAMENTO, CALIFORNIA 95817
Phone (916) 454-5805

July 17, 1986

The Honorable Malcolm Wallop, Chairman
United States Senator
Subcommittee on Public Lands, Reserved
Water and Resource Conservation
301 Dirksen SOB
Washington, DC. 20510

Dear Senator Wallop

The California State Grange, representing nearly 40,000 family farmers and rural Californians, OPPOSES S 2159-Wilson: "Creation of Big Sur National Forest Scenic Area." The California State Grange has long supported local control over federal or state control in management practices and has continuously opposed removing taxable land by Federal action for the purpose of Federal parks or wilderness areas.

The Big Sur area is already well protected by the natural landscape of the land, by the restraints of the people of the area who value property and its environment, and have by choice elected to live there because of its natural beauty; by county zoning and by the California Coastal Zone Conservation Act of 1972; by passing Proposition 20 through the initiative process to protect the California Coastline, and recent enactment of the California Coastal Act of 1976 by the California State legislature.

With this protection, there is little need for further controls or interference by the federal government. It is clear from past experiences that when the federal government become involved in acquiring or managing land for preservation purposes, the people and communities within the boundaries become severely infringed.

The California State Grange, committed to local control and management, supports the efforts of Big Sur Grange #742 to retain local control of the Big Sur regions within the scope of the California Coastal Act of 1976, or a similar protective State law.

Sincerely,

David Austin

David Austin, Master
California State Grange

DA/nsf

cc. Senator Pete Wilson
The National Grange

In Essentials, Unity . . . In Non Essentials, Liberty . . . In All Things, Charity

Senator WALLOP. Thank you very much, Mr. Trotter.
Mr. Putnam.

STATEMENT OF LARRY PUTNAM, PEBBLE BEACH, CA

Mr. PUTNAM. My name is Larry Putnam. I am a resident of Pebble Beach, CA, which is part of the Monterey Peninsula, and I oppose the Senator's bill.

I am a strong advocate of individual responsibility and local control. We have too much history of abdication of individual responsibility and local control to the Federal Government. Time has proven that this is not always the best way to go. The Federal Government does not have all the solutions and we all know that it has a miserable track record of fiscally responsible management.

This is a classic case before you. It involves a constitutional principle of local versus Federal jurisdiction, the separation of powers principle. After years of give and take, the residents of Big Sur, elected officials of Monterey County, and the State of California have knocked out a very comprehensive and very restrictive land use plan that all can live with.

Enter S. 2159 proposing another layer of control from the Federal level. We do not need it, we do not want it, regardless of stated good intentions.

Let me quote from the author of this bill, Senator Wilson, who incidentally I support and supported in his bid for election. And this is when he was running for election.

> I would feel much more comfortable in leaving the decision on the future of this area in the hands of the people on the local level who know it, cherish it, and I believe have its best interests in mind, rather than turning it over to the bureaucrats. Working on the local level, I believe it is possible to work out solutions which are environmentally sensitive, yet sensible also from an economic standpoint. I do not believe that those in Washington are so much wiser that they have to make these decisions for us.

That quote is from a letter dated March 10, 1982, to James Josoff from Pete Wilson. In my opinion, his commitment then was far more in line with the intent of the Constitution than it is today.

S. 2159 appears to be 180 degrees out of phase with his thinking in those days. When Senator Wilson wrote that letter—for brevity, in my opinion, it is fiscally irresponsible to propose spending any time and money on this unneeded and unwanted legislation. Democracy is not bureaucracy.

Thank you.

[The prepared statement of Mr. Putnam follows:]

DATE: JULY31, 1986

SUBJECT: TESTIMONY OPPOSING SB 2159 BY L. D. PUTNAM,4153 SUNRIDGE ROAD, PEBBLE BEACH, CALIFORNIA 93953 BEFORE SENATE SUB-COMMITTEE-PUBLIC LANDS AND NATURAL RESOURCES.

TESTIMONY:

MY NAME IS LARRY PUTNAM. I AM A RESIDENT OF PEBBLE BEACH, CALIF. WHICH IS PART OF THE MONTEREY PENINSULA. I OPPOSE SENATOR WILSON'S SB 2159.

I AM A STRONG ADVOCATE OF INDIVIDUAL RESPONSIBILITY AND LOCAL CONTROL. WE HAVE TOO MUCH HISTORY OF ABDICATION OF INDIVIDUAL RESPONSIBILITY AND LOCAL CONTROL TO THE FEDERAL GOVERNMENT. TIME HAS PROVEN THAT THIS IS NOT ALWAYS THE BEST WAY TO GO. THE FEDERAL GOVERNMENT DOES NOT HAVE ALL THE SOLUTIONS AND WE ALL KNOW IT HAS A MISERABLE TRACK RECORD OF FISCALLY RESPONSIBLE MANAGEMENT.

THIS IS A CLASSIC CASE BEFORE YOU. AFTER YEARS OF GIVE AND TAKE, THE RESIDENTS OF BIG SUR, ELECTED OFFICIALS OF MONTEREY COUNTY AND THE STATE OF CALIFORNIA HAVE KNOCKED OUT A COMPREHENSIVE AND VERY RESTRICTIVE LAND USE PLAN THAT ALL CAN LIVE WITH. ENTER SB 2159 PROPOSING ANOTHER LAYER OF CONTROL FROM THE FEDERAL LEVEL. WE DON'T NEED IT AND WE DON'T WANT IT REGARDLESS OF STATED GOOD INTENTIONS.

LET ME QUOTE FROM THE AUTHOR OF THIS BILL SENATOR WILSON. "I HAVE BEEN ASKED TO STATE MY POSITION ON EFFORTS TO FEDERALIZE THE BIG SUR COAST AREA AND AM HAPPY TO DO SO. I CAN TELL YOU THAT I DO NOT SUPPORT THE FEDERALIZATION OF THIS AREA AND APPLAUD SENATOR HAYAKAWA'S EFFORT TO STOP IT.

LETS FACE IT - WE CAN'T BUY EVERY GOOD INTENTION THAT COMES ALONG, PARTICULARLY AT A TIME WHEN THE GOVERNMENT IS

RUNNING DEEPLY INTO THE RED AND TAXPAYERS ARE RIGHTFULLY DEMANDING TAX RELIEF. ------ I WOULD FEEL MUCH MORE COMFORTABLE IN LEAVING THE DECISION ON THE FUTURE OF THIS AREA IN THE HANDS OF THE PEOPLE ON THE LOCAL LEVEL WHO KNOW IT, CHERISH IT AND, I BELIEVE, HAVE ITS BEST INTERESTS IN MIND, RATHER THAN TO TURN IT OVER TO THE BUREAUCRATS.

WORKING ON THE LOCAL LEVEL, I BELIEVE IT IS POSSIBLE TO WORK OUT SOLUTIONS WHICH ARE ENVIRONMENTALLY SENSITIVE, YET SENSIBLE ALSO FROM AN ECONOMIC STANDPOINT. I DON'T BELIEVE THAT THOSE IN WASHINGTON ARE SO MUCH WISER THAT THEY HAVE TO MAKE THESE DECISIONS FOR US." END OF QUOTE.

THAT QUOTE IS FROM A LETTER DATED MARCH 10, 1982 TO JAMES JOSOFF FROM PETE WILSON. IT CERTAINLY APPEARS TO BE 180 DEGREES OUT OF PHASE WITH HIS THINKING TODAY AND SB 2159. WE HAVE FAR STRONGER LOCAL CONTROLS TODAY THAN IN 1982 WHEN SENATOR WILSON WROTE THE LETTER. IN MY OPPINION, IT IS FISCALLY IRRESPONSIBLE TO PROPOSE SPENDING ANY TIME AND MONEY ON THIS UNNEEDED AND UNWANTED LEGISLATION. DEMOCRACY IS NOT BUREAUCRACY. THANK YOU.

L. D. PUTNAM

Senator WALLOP. Thank you, Mr. Putnam.
Mr. Newell.

STATEMENT OF ROGER NEWELL, CARMEL, CA

Mr. NEWELL. Thank you, Mr. Chairman, members of the committee and staff. I am Roger Newell. I am a second-generation ranch landowner. We still have livestock dotting the hillsides where our property is.

I have been active in the community over the years on several boards. I am a past president of the Coastal Property Owners Association. I am a founding trustee of the Big Sur Land Trust and currently its vice president. I was chairman of the Big Sur Coast Citizens Advisory Committee during the formulation of the land use plan, which we all have given so much credit to.

I feel it is important to let you know that there is another side to this discussion and that is that there are those of us in the community who feel that this legislation is timely and useful in a number of ways. There are some practical relationships that need to be clarified and established.

One, it is much more pragmatic and prudent to direct the Forest Service to build the land use plan standards into its planning process now rather than after the fact later.

Second, it is very, very important to build that bridge between public and private ownership through giving directive to the Forest Service to participate in an interagency management entity which would deal with those problems across the boundaries of the private and public sector, for example, Highway 1; for example, military overflights.

Third, that a backup position is a legitimate position to establish a minimal Federal participation in safeguarding the standard we all agree is valuable to us.

On funding, we would ask for a change in the legislation and put that funding responsibility not on a new entity created by the legislation, but let the local entities such as the Big Sur Land Trust and other fundraising, nonprofit groups capable of this responsibility to carry out those needs for finding those funds to continue in the preservation of the Big Sur coast.

I thank you for this opportunity to share these thoughts with you.

[The prepared statement of Mr. Newell follows:]

Testamony by

ROGER NEWELL, CARMEL, CA

Before the

SENATE ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON
PUBLIC LANDS, RESERVED WATER AND
RESOURCE CONSERVATION

S. 2159

July 31. 1986

Page One: S2159 July 31,1986
NEWELL

Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to participate in deliberations on S2159, introduced by Senators Pete Wilson and Alan Cranston.

While Monterey County has its state certified Land Use Plan (LUP) for the Big Sur Coast in California, and while LUP is a very resource protective document, it does not govern the adjacent federal lands along the Big Sur Coast. Only federal legislation can establish conformity to the Big Sur Coast Local Coastal Program. I hope the following remarks will be helpful as we all seek to forge a new and commodious working relationship between national and local interests in Big Sur.

On two of the four major issues raised by S2159 there seems to be broad community consensus. First, the logic of establishing one standard land use plan for all ownerships and jurisdictional authorities on the Big Sur Coast does make good planning and management sense. The Bill and the community at large agree that the Big Sur Coast LUP of 1986 is sufficiently resource protective to be identified as the minimum land use standard for the Coast. Second, it makes equally good sense to establish an Interagency Advisory Council which will co-ordinate agency participation on matters of mutual interest in upholding the policies and standards of the Big Sur Coast LUP. To this end, Monterey County has given formal status to such an already existing body.

Third, the issue of supportive funding required to make such a resource protective LUP for Big Sur a success has a local response. Again there is broad agreement that the private sector is the appropriate source for finding the desired funds. Instead of looking to the two entities proposed by S2159, the efficiencies of utilizing existing local fund raising entities offers greater appeal. The Big Sur Preservation Commission is a newly formed body designed to be a complimentary fund raising element to meet the specific demands for financial relief to landowners denied the development of their property because of the strict LUP Critical Viewshed Policies.

The broader and longer term view of funding needs for the Big Sur Coast as addressed by the Bill can be meet by The Big Sur Land Trust which does have the capabilities and experience sought by the Bill. To date the Land Trust has preserved over 5,200 acres of land in fee or with scenic easements having a market value of some $7.5 million. The Big Sur Land Trust has been in business as a private, non-profit California corporation for nine years and has its 501(c)(3) IRS tax status. By revising S2159 to employ these existing entities as the fund raising vehicles for the Big Sur Coast timely and opportune preservation would in fact be ongoing, providing local focus and familiarity in pursuit of a common goal held by the Wilson/Cranston Big Sur Bill.

Fourth. The most controversial aspect of the Bill is what role and authority to give to the Secretary of Agriculture. What has been needed on the Big Sur Coast is a legislative vehicle to unite in a co-operative fashion the **federal, state and local landowners** and jurisdictions of the Coast. The problem raised by federal legislation is how to provide co-ordination and protection of the common land use and management standards without introducing broad, sweeping powers of federal authority in an area already under strict local regulation. An alternative to the format proposed in S2159 might be as follows:

1. Do not enlarge the present Los Padres National Forest boundaries within the Big Sur Coastal Zone, nor create new boundaries for a new federal Big Sur designation.
2. Revise S2159 to:
    a. Give authority to the U.S. Forest Service to adopt the Monterey County 1986 Big Sur Land Use Plan as its minimum land use development standard;
    b. Give the Secretary of Agriculture authority to reach outside of the U.S. Forest Service boundary into the Big Sur Coastal Zone boundary ONLY for pre-emptive action against specific breeches of the 1986 Big Sur LUP standards;
    c. Mandate U.S Forest participation on the Interagency Advisory Council which is to co-ordinate agency issues and uphold the 1986 Big Sur LUP standards.

d. Charge the Interagency Advisory Council with the responsibility to notify the Secretary of Agriculture of any breech of the 1986 standards, and charge the Secretary with the responsibility to intervene through pre-emptive land purchase; any such acquisition is not to be retained in federal ownership but passed on through to Monterey County.

This concept would remove the need to create a new federally designated area; it would work within existing boundaries; it would work with existing local entities; it would not create the threatening stigma of private lands within federal boundaries thus becoming "inholders"; it would limit any pre-emptive federal intervention to very specific violations of common land use standards; it would provide the long term girding of a well conceived and carefully balanced local land use plan.

THE BIG SUR LAND TRUST

BOARD OF TRUSTEES

Alvin Andrus
President

Roger Newell
Vice President

Richard Dalsemer
Secretary

Lloyd Jones
Treasurer

Lloyd Addleman
Victoria Andrews
Edward De Mars
Douglas Despard
Denise Duffy
Nancy Hopkins
Glynn Lockwood
Roderick Mills
Earl Moser

ADVISORS

David Bluford
Rudd Crawford
William Cusack
William Doolittle
Albert Eisner
Alisa Feineman
Don Harrison
Rod Holmgren
Laurence Horan
Anne McGowan
Maurie McGuire
Virginia Mudd
Margaret Owings
Julie Packard
Jeffrey Norman
Will Shaw
Vern Yadon

EXECUTIVE DIRECTOR

Brian L. Steen

GENERAL COUNSEL

Zad Leavy

P.O. Box 221864
Carmel, CA 93922
408-625-5523

A California Non-Profit
Tax-Exempt Corporation

July 31, 1986

Senator Malcolm Wallop
Chairman
Senate Subcommittee on Public Land
Room SD-308
Senate Dirksen Office Building
Washington, D.C. 20510

Senator Wallop and Committee Members:

My name is Roger Newell, and as Vice-President of The Big Sur Land Trust, I am pleased to present the Land Trust's opinion on the legislation before you today. As a non-profit conservation organization, our role has been to work within our region of California to preserve coastal properties in actual real estate transactions that result in preservation in perpetuity. Relying on the resources of the community and support from our 400 members the Land Trust has completed over twenty transactions that effectively preserve 5,300 acres of the coast valued at over $7 million since our founding in 1978.

In response to Senator Pete Wilson's proposal to create the Big Sur National Forest Scenic Area, S-2159, The Big Sur Land Trust wishes to state that legislation may be necessary to protect the public's interest in the Big Sur Coast, but it must be properly conceived and executed. We believe Senator Wilson's proposed legislation can be improved in the following areas:

1. There should be a clear provision made that requires land managed by the U.S. Forest Service to meet land-use and resource-protection policy equivalency with the Land Use Plan of Monterey County governing private lands. This is essential because the geographic and ecological boundaries of Big Sur do not coincide with political and land ownership delineations. Land and resource management with common objectives on both private and public lands will reduce land use inequities and most importantly will protect the important resources that constitute the definition of Big Sur as an unparalelled landscape.

2. Although the Wilson bill sets up the Scenic Area Advisory Board, it seems to us to be closed to the public and ultimately controlled by the Secretary of Agriculture. A multi-agency council with resident participation must be given statutory authority to solve very difficult land use conflicts that currently cannot be resolved because of overlapping agency jurisdiction and minimal communication with the public.

3. Any bill that seeks to accomplish as much as this bill must provide a means of funding its objectives. Although we appreciate the constraints on Federal funding, we feel it is unreasonable to expect the private sector to provide all funding, given the mix of private and public interests in the Big Sur Coastal area. We are aware of the success of private funding for the 1984 Olympics and for the Statue of Liberty, but we question the desirability of placing Big Sur in the

> commercial arena. The objective shared by all is to preserve the coast for future generations to enjoy at a reasonable rate, as opposed to overusing it. The visitor use on Big Sur's 2-lane road now exceeds 3 million persons annually. For the very fact that private and public interests overlap, we believe the solution to the question of landowner compensation to protect the visual quality of the coast must be derived from a combination of both public and private sources.

For the past eight years The Big Sur Land Trust has led the effort to obtain private and public sector funding, by having raised over $2.1 million to preserve lands worth many times that amount in the public interest. We have accomplished this largely on the local level in California. Given this record we offer that there is no need to create a new non-profit fundraising entity to accomplish purposes already started by The Big Sur Land Trust.

We welcome the challenge to expand our efforts nationally while still avoiding the invitation to overuse this fragile coastline. To do this we propose to expand our existing private funding within our area and across the country with the generous help of individuals recognized nationally who share a commitment to preserve the Big Sur Coast.

At the same time we will encourage public funding from all sources and wish to start at this very moment by asking you and Senator Wilson to consider adding a funding component to the Senator's proposal that would be used for increased maintenance of Federal

Lands and facilities. It is obvious that the U.S. Forest Service is currently funded only on a mimimal custodial level and that the condition of its facilities and public trails has declined dramatically over the past decade.

In summary, The Big Sur Land Trust feels there are public and private needs for consistent and properly funded land management along the coast. We do favor legislation that would require public agency coordination and would provide for increased management and maintenance of existing public lands.

We appreciate the opportunity to speak today and although we believe portions of Senator Wilson's bill could be improved, we do commend him for his interest in and concern for protecting this national treasure.

Senator WALLOP. Let me ask you, if you would, to give your fourth point about the Secretary of Agriculture.

Mr. NEWELL. I beg your pardon?

Senator WALLOP. You have a fourth point noted in your written statement. You have time to make that.

Mr. NEWELL. The fourth point deals with the question of a backup position for the Federal interest on the Big Sur coast. It is my suggestion that as an alternative that instead of creating a larger Federal boundary around the county's territory, to retain the boundary as it now exists with the Forest Service boundary; but give that authority to the Secretary to step out in an intervening triggered situation when the standard that we all have accepted for the coast is being violated or is in jeopardy of being lessened and that the language can be used to make that a very specific and limited action and not the threatening step that has so often been portrayed throughout this hearing.

I do not know whether that is a better solution than another alternative, which would be to allow the Forest Service to participate in approval of amendments to the land use plan, should that be undertaken. But some minimal backup position to maintain a common standard does make practical sense.

Senator WALLOP. The common standard to which you refer is one between the county's plan and the Forest Service?

Mr. NEWELL. That is right. The legislation correctly identifies the land use plan as the minimum land use planning standard and that the Forest Service should incorporate in its own framing of its own plan for its lands.

Senator WALLOP. I have no problem with that. I have a little problem giving the Secretary of Agriculture reach into the county's operation.

Mr. NEWELL. It is a real problem. I agree with you. I do not know what the proper detailed response should be, but the argument still is valid that if we are all going to play by the same ground rules, then let us find a way to prevent the never-ending interest by development interests in Big Sur. Over time, I and others in my community that I know are concerned that erosion is not an inevitability.

Senator WALLOP. Thank you.

Senator Wilson.

Senator WILSON. Thank you, Mr. Chairman. I find these suggestions quite interesting and, in fact, have thought about them myself. In fact, the first of the two that Mr. Newell has suggested is essentially what we are seeking to achieve in the bill now. I am not quite sure that you can do legally what you want to do without going through what we are involved in in the bill.

An alternative is regulatory rather than through condemnation. What I am interested in is a safeguard. Let me just say by way of response too, Mr. Chairman, since Mr. Perlmutter raised the question and as you point out the purpose of the hearing is to provide information. The exercise of this condemnation power, which is very much conditioned on the violation of the plan by an amendment that would significantly weaken it, you asked, and quite properly, what guidance has the Secretary in determining whether something is significantly weakening to the plan.

The guidance he has is from the board with whom he is required by the bill to consult and the membership of that board consists of a member of the State Coastal Commission, a member of the Resources Agency, a member of the Forest Service, and three members appointed by the County Board of Supervisors, and one by the San Luis Obispo. You know, the exact composition of that is not graven in stone nor is even the ultimate solution of how we safeguard against the erosion of the protections given by the plan itself.

Senator **Wallop**. Well, if I may say so, one of the problems that I have with the situation created by this bill is a board which is composed of a majority of Californians, local and State, but administered by the Federal Government.

Mr. **Putnam**. That is my problem too, Senator.

Senator **Wallop**. We are not going to resolve that in this conversation.

Senator **Wilson**. You have got a problem, Mr. Chairman, in that you have got two parts to the area.

Senator **Wallop**. There is one ultimate responsibility and that is the problem.

Senator **Wilson**. That is right. And you have got more than one owner. The largest owner is the Forest Service, and they can use guidance from the locals.

Senator **Wallop**. The largest owner is the smallest representation, which is not exactly the right way to go. And yet I would be reluctant to give any more authority than that which is already provided to the Federal Government.

Senator **Wilson**. There I would have to agree with those that are concerned that there not be adequate local representation. I think that the board should be constituted in a way that provides the Secretary with the maximum of advice from residents.

Senator **Wallop**. Well, that is fine by me. The problem is that the Secretary becomes the one who is ultimately responsible. Those boards can be changed.

Senator **Wilson**. That's a function of existing law. As you know, Mr. Chairman, the requirement exists in the law now that the Secretary draw up a plan for the management of the Federal forest lands.

Senator **Wallop**. Of the Federal forests, but then who is responsible for the administration of the private lands—State and local government?

Senator **Wilson**. No. No, sir. That I want to get clear.

Senator **Wallop**. I have got to go on. There will be time for this in the drafting of the amendments to the bill if we get that far.

Mr. **Perlmutter**. If I could just make one comment.

First of all, we hope there are not any drafting of amendments. But it is significant, Senator, that this has been a problem from the very beginning. The statements that are made about the bill do not seem to coincide with the language of the bill. The intent, we all agree with. Your goals are the same as our goals. But the language and the way this thing is written, did not provide the same substance as your intent and the goals.

Senator **Wilson**. Mr. Perlmutter, in the interest of trying to eliminate the misunderstanding, we took the Friends of Big Sur point paper and have addressed them on a point-by-point rebuttal, which I think really will do a lot to clarify it.

Mr. **Perlmutter**. Thank you.

Senator **Wilson**. In fact, Mr. Chairman, I would ask permission to submit both the point paper and the response for the record.

[The information referred to follows:]

THE WILSON BILL (S. 2159) TO CREATE THE BIG SUR NATIONAL FOREST SCENIC AREA
CO-SPONSORED BY SENATOR CRANSTON

The Wilson Bill, with a triggering mechanism based on the judgment of a single bureaucrat and without public input, carries the power:

to extend the boundaries of the scenic area at any time p. 3

to condemn private property and remove people from the land p. 9, 11

to limit the terms of ownership of property to 25 years p. 10, 11

to refuse to return control of acquired lands back to the county p. 12

to alter major provisions of the bill without meaningful public participation p. 10

to supersede county and state regulations and to override elected county and state authorities p. 3

to replace Local Coastal Plans with a Forest Management Plan p. 3

to prevent needed amendments to the Local Coastal Plans p. 10

to ignore local property owners and residents, and local advisory committees p. 10

to remove millions of dollars of property from the tax rolls p. 9

to increase recreational uses within the scenic area beyond those now allowed under local and state controls, and thus severely impact adjacent communities p. 4

to permit continuation of present mining and timbering, and even allow increases in such uses if the all-powerful Secretary of Agriculture so decides p. 5

to set up government of the area by administrative edict - that is, government by Appointed People responsible to no one other than other Appointed People - in effect an absolute monarchy, with the Secretary of Agriculture or a bureaucrat under him as King p. 1 thru 18

COMMENTS: This bill gives the Secretary of Agriculture, an appointed official, dictatorial powers over the entire scenic area. The bill makes a mockery of our hard-won LUPs which we have hammered-and-tonged our way through for the past 14 years and which have grown out of endless examinatio of every facet of land-use planning, and massive public input. Implicit in the Wilson bill is the accusation that only the federal government knows how to plan, preserve, and maintain appropriate land use, when the record shows the exact contrary to be true. The bill ignores the constitutional provisions for due process and protection of private rights; violates/remove the Coastal Act provisions for public notice and maximum public participatio in any proposed land-use changes; threatens the environment by setting the scene for doubling, tripling, or septupling the number of tourists; places a cloud on the title to all properties in or near the scenic area; diminishes the tax base by removal from tax rolls, and by devaluation of all properties within or near the scenic area (remember: the boundaries can be extended by fiat of the Secretary of Agriculture) - at a time when the county is in financial trouble; requires some federal funding when we are in a continuing national budget crisis and have had to curtail some park services because of lack of funds; may still require massive additional federal funding if the history of federal acquisition practices in other areas is any guide; sets up an overlapping, redundant, frustrating, complex system of regulations which removes government from the hands of our electe REACHABLE officials and residents, and places it in the hands of Appointed Committees, Appointed Boards, and remote, unreachable Appointed Bureaucrats - a system known as totalitarianism.

In fact, the Wilson bill establishes the type of federal land use now being deplored by the Government Accounting Office (GAO), Congress's own watchdog, as irresponsible, wasteful, inefficient, inequitable, and in need of reassessment by the Congress.

The Big Sur Coast, southward from Carmel, is already protected by the most sophisticated, restrictive land-use controls ever devised in this country. The Wilson bill is not needed, not wanted, and can't be afforded or tolerated if the environment, the present unregimented tourist experience and the lifestyles and culture of the residents of coastal communities are to survive.

This analysis prepared by the Friends of the Big Sur Coast.

POINT-BY-POINT RESPONSE TO FRIENDS OF BIG SUR COAST ANALYSIS OF WILSON'S BIG SUR LEGISLATION
JULY 15, 1986

The Friends of the Big Sur Coast have circulated an analysis of S. 2159, legislation creating a Big Sur Scenic Area, that contains a number of misleading statements. Herewith is a point-by-point response to the issues raised in the Friends' analysis.

The Friends' analysis asserts that the bill grants to the Secretary of Agriculture the power:

to extend the boundaries of the scenic area at any time

The bill contains a provision that is standard in any federal land designation legislation which allows the Forest Service to make minor revisions in the boundaries of the Scenic Area. If a road on the edge of the Scenic Area has been wiped out by a mudslide, for example, and needs to be realigned, it makes little sense to require the Forest Service to seek an Act of Congress to make this kind of boundary modification.

In the unlikely event, however, that the Forest Service tried to abuse this authority, language is included in the bill that requires any proposed change in the Scenic Area boundary to sit before Congress for sixty days to allow the appropriate Committees of Congress to take such action as may be deemed appropriate before any such proposal can become effective.

to condemn private property and remove people from their land

The bill prohibits the Forest Service from exercising its condemnation powers unless the County were to adopt changes to the existing Land Use Plan -- changes that would have to be certified by the Coastal Commission -- that would allow for development that would otherwise be prohibited under the existing LUP. For example, if a Big Sur landowner were able to convince the County and Coastal Commission to change the LUP to allow for the construction of a resort complex, the Forest Service would be authorized by the bill to condemn that property slated for development in the interests of preserving the scenic characteristics of Big Sur. As long as no weakening amendments are adopted to the LUP, the Forest Service will have no authority to condemn private property and remove people from their land.

to limit the terms of ownership of property to 25 years

The bill grants to the Forest Service the authority to negotiate lease-back provisions with any Big Sur property owner wishing to sell property to the Forest Service. If a property owner elects to sell land to the Forest Service, the Forest Service is authorized by this bill to purchase that property with a provision that would allow the property owner -- at the owner's request -- to lease back the land for twenty five years or until death. The decision on whether to take advantage of this lease back option is entirely in the hands of the property owner.

to refuse to return control of acquired lands back to the county

The bill authorizes the Forest Service to purchase property from any Big Sur landowner wishing to sell land to the Forest Service. The bill does not, however, contemplate an increased federal presence in the Big Sur area. For this purpose, the bill requires the Forest Service to offer any acquired property to the county for its use and management unless it is determined that such property can more efficiently be managed by the Forest Service.

Authorizing the Forest Service to purchase Big Sur property from willing sellers is intended to help the county with the land acquisitions that will inevitably be required under the terms of the county's Land Use Plan. Such acquisitions were expressly contemplated in the LUP, and in fact, a request for federal help in making these necessary land acquisitions was included in the text of the LUP.

to alter major provisions of the bill without meaningful public participation

Absent further elaboration on this point, it is difficult to know what the Friends' mean in making this argument. It goes without saying that only Congress has the authority to alter any provision of the bill, be it a major or minor change.

to supersede county and state regulations and to override elected county and state authorities

Again, absent further elaboration on this point, it is difficult to know how to respond. With regard to the management of the 75,000 acres of Forest Service lands in Big Sur, there are no county of state regulations to override or supersede. Management of the Forest Service lands is exclusively the responsibility of the federal government in consultation with local and state authorities.

With regard to the management of the 55,000 acres of privately held land in Big Sur, the bill expressly provides that the county's Land Use Plan -- to be implemented by the county -- will be the governing instrument for these lands.

to replace Local Coastal Plans with a Forest Management Plan

The bill requires that the Forest Service -- with the help of an Advisory Board -- prepare a management plan for the management of the Forest Service lands in Big Sur. This management plan would incorporate the restrictions on mining, logging and other non-conforming uses that are prohibited by the bill and would generally bring the management of the Forest Service lands into compliance with the county's Land Use Plan. It bears repeating that under this bill, the county's LUP will be the governing instrument for the private lands (the LUP has no jurisdiction over federal lands), and the Forest Management Plan -- drafted to be in conformance with goals and objectives of the LUP -- will be the governing instrument for the federal lands. By law, existing and proposed, one cannot "replace" the other.

to prevent needed amendments to the Local Coastal Plans

The bill provides that if a future county Board of Supervisors were to adopt changes to the existing Land Use Plan -- changes that would have to be certified by the Coastal Commission -- that had the effect of allowing development of Big Sur property that would otherwise be prohibited under the existing LUP, the Forest Service will be empowered to condemn the property on which such development is planned if that development threatens to degrade the scenic characteristics of Big Sur.

This condemnation authority is not triggered by changes to the LUP that strengthen it, streamline its administrative efficiency, address financial considerations, or any other change that does not have the effect of allowing for undesirable property development.

to ignore local property owners and residents, and local advisory committees

As stated elsewhere in this report, the Forest Service will have no management authority over private property in Big Sur. Therefore, it is unclear how the Forest Service will be in a position to ignore local property owners even if it desired to.

Of course, if a local property owner were successful in convincing the state and the county to change the LUP to allow for property development not otherwise permitted by the existing LUP, then the Forest Service would be in a position of ignoring the wishes of this particular property owner if the Forest Service decided it was necessary to condemn the property in question in the interest preserving Big Sur.

to remove millions of dollars of property from the tax rolls

The bill does not authorize nor permit a massive federal takeover of private lands in Big Sur. Private property purchased by the Forest Service will be purchased on a willing seller/willing buyer basis and will be offered back to the county for its use and management. This provision was included to help the county with the land acquisitions made necessary by the adoption of the Land Use Plan and expressly contemplated in the text of the LUP.

to increase recreational uses within the scenic area beyond those now allowed under local and state controls, and thus severely impact adjacent communities

There are not any "local or state controls" that set limits for "recreational uses" within the Big Sur area. Thus, it is unclear how the bill will authorize the violation of a given level of recreation uses.

As to whether the designation of Big Sur as a Scenic Area will in and of itself attract more tourists to the area than would otherwise be the case, data and analysis to support this claim has yet to surface. The Forest Service, on the other hand, has analyzed visitor impacts after designation of seven National Recreation Areas and concludes: "As the Big Sur Area is well known and receives substantial visitor use and many new facilities are not essential for management of the area, the enclosed information and our experience leads us to conclude that designation of Big Sur Scenic Area would not result in a significant increase in visitor use."

to permit continuation of present mining and timbering, and even allow increases in such uses if the all-powerful Secretary of Agriculture so decides

On the Forest Service lands in Big Sur, the bill prohibits mining (subject to valid existing claims) and logging. The county's Land Use Plan has already included similar prohibitions for the private lands within what it has defined as Big Sur's "critical viewshed".

to set up government of the area by administrative edict - that is, government by Appointed People responsible to no one other than other Appointed People - in effect an absolute monarchy, with the Secretary of Agriculture or a bureaucrat under him as King

The Secretary of Agriculture will have no authority in the management of Big Sur other than what is conferred by law, the specifics of which are contained in S. 2159, legislation to establish a Big Sur Scenic Area.

Senator WALLOP. By all means. But ultimately the Secretary has power of condemnation under this bill, which is the ultimate power of expression of the local's plan.

Senator WILSON. He has that power very narrowly conditioned. The only way it can be triggered is if there is a significant departure, a violation, a weakening of the plan itself. And he is required by the bill to be advised. He has to consult with and be advised by this board.

Senator WALLOP. But then he consults and advises with that board, and that board, like the county supervisors, can change over the course of time, too.

Mr. PERLMUTTER. And so can the Secretary.

Senator WALLOP. Of course.

Senator WILSON. We are, as we say, a government of laws, not of men; but the men change and so do the laws. There is no question. This is simply I think the best way to provide a protection through some balance and some sharing of the responsibility.

Senator WALLOP. I thank the panel very much.

We will call on the next panel: Mr. William Brown from Big Sur, Ms. Suzanne Backer from Big Sur, Mr. David Backer from Big Sur, Mr. Jim Greathouse from Cambria, Dr. Carol Wallyn from Monterey, Mr. Benjamin Parks from the National Inholders Association.

Mr. Brown.

STATEMENT OF WILLIAM ERNEST BROWN, BIG SUR, CA

Mr. BROWN. My name is William Ernest Brown. I am a resident of Big Sur.

S. 2159 is not only destructive to the Big Sur coast; it would also have a devastating effect on the surrounding cities and communities. The Monterey peninsula has always been an unspoiled area, and the cities and towns are laid-back, quiet, carefully controlled communities of people who love the special ambiance and environment. But 3 million tourists a year have also enjoyed that special ambiance: The beauty of the land, the quiet, the quaintness of the towns, the comfortable atmosphere.

Despite all of Senator Wilson's assurances, this wonderful tourist experience would be destroyed by his bill. The increased publicity would invariably create a climate of pressure for more and more development. The already scarce and rationed water resources would be further strained. Water would not be available for the beautiful flower gardens, which are such a feature of these communities now.

We now have moritoriums on hotel and motel development in both Carmel and Monterey. But that would not keep the increased number of tourists away. They might stay at new hotels in communities north and east, but they would spend the days in Carmel and Monterey, placing unbearable strain on the resources of these communities.

You will note that all the communities around Big Sur have passed resolutions against the bill.

Finally, I would like to quote from The Environmental Hustle by Bernard J. Frieden of MIT where he discusses the Point Reyes National Seashore. He notes that, "Now that the Federal Government has bought the land, environmentally concerned residents are discovering that the ecosystems are extremely fragile and will not withstand many visitors.

After he said that, after the counsel had supervised and talked about the plan and were worried about it, the visitation to the park still went up four times.

Senator Wilson and Senator Cranston profess to want to save Big Sur. The best way to save Big Sur is to withdraw the bill.

Thank you.

[The prepared statement of Mr. Brown follows:]

Testimony on S 2159

To U.S. Senate Subcommittee

On Public Lands, Reserved Water

And Resource Conservation

July 31, 1986

Testimony of William Ernest Brown

S2159 is not only destructive to the Big Sur Coast, it would also have a devastating effect on the surrounding cities and communities.

The Monterey Peninsula has always been an unspoiled area, and the cities and towns have laid-back, quiet carefully controlled communities of people who love the special ambiance and environment.

But three million tourists a year have also enjoyed that special ambiance, the beauty of the land, the quiet, and the quaintness of the towns and comfortable atmosphere.

Dispite all of Senator Wilson's assurances, this wonderful tourist experience would be destroyed by his Bill. The increased publicity would inevitably create a climate of pressure for more and more development. The already scarce and rationed water resources would be further strained. Water would not be available for the beautiful flower gardens which are such a feature of the surrounding communities. Instead of flowers and humming birds we would have paved parking lots.

We now have moritoriums on hotel and motel development in both Carmel and Monterey. But that would not keep the increased number of tourists away. They might stay at new hotels in communities east and north but they would spend the days in Carmel and Monterey, placing unbearable strain on the resources of these communities.

You will note that all the communities around Big Sur have passed resolutions against the Bill.

Finally, let me quote from The Enviromental Hustle by Bernard J. Frieden of MIT where he discusses the Point Reyes National Seashore. He notes that "Now that the federal government has bought the land, however, enviromentally concerned residents have discovered that the eco systems are extremely fragile and will not withstand many visitors." Mr. Frieden goes on to quote County Supervisor as saying, ten years after the federal area was established:

> "Many of them now think it was a mistake to have a federal recreation area. They're afraid of having four or five million visitors a year. Federal people have proposed some compromise plans so that this won't be like Yosmite, but any plans that will bring in visitors upset west Marin people. Park services staff say that since fereral tax payers bought the land, they are entitled to come and use it. They also say they wish they had bought out three or four towns around Point Reyes so there would be no opposition."

Visitation to the park had increased three-fold when the Supervisor made that statement. It has now reached four-fold.

Senator Wilson and Cranston profess to want to save Big Sur. By far the best way to save Big Sur is to withdraw S2159.

THE WILSON BILL'S EFFECT ON COMMUNITIES ALONG THE CENTRAL CALIFORNIA COAST

There are several reasons why the Central California Coastal communities passed resolutions against the Wilson Bill to make a federal area of the Big Sur Coast. These resolutions specifically oppose the Wilson Bill, but I believe I am correct in saying that they would oppose any legislation that did the same things that passage of S. 2159 would do.

First of all, there is the question of local control vs. federal domination. Each of the communities on the coast has hammered out Local Coastal Plans with the California State Coastal Commission over a number of years, including Big Sur. These plans may not be perfect and may have to be amended from time to time when we and the Coastal Commission see that what sounded good in theory does not work out as well or as protectively as we had hoped. But, flawed or not in minor ways, they will protect our areas.

Now, with the Wilson Bill, the Senator is saying that the cities and counties along the coast can make wonderful plans in conjunction with the State (and Wilson does say that the Big Sur Plan at least is wonderful), but the federal government cannot quite trust these communities and the State to carry them out. Therefore, Big Brother is going to stand at the shoulder of the communities and cities, and the County Board of Supervisors to see that no boo-boo is made. That philosophy violates the intent of the separation of powers between state and federal government. Who knows our areas better, the local people who have spent up to ten years preparing these plans, or a federal bureaucrat? The Wilson bill applies the philosophy of incompetent local government to the County of Monterey in the case of Big Sur. What city, county, or community will be next? The establishment of this precedent would be outrageous.

It flies in the face of the President's philosophy that those things which state and local government can do best should be left to state and local governments, while the federal government does those things which state and local governments cannot do.

One of Mr. Wilson's spokesmen has said that if the federalization of Big Sur were to create any increase in visitation to our area, such an increase would be a modest or moderate one. We can't take that chance. This is California we are talking about, and even more specifically the central coast of California - mecca for visitors. We lie between two of the most important tourist attractions in the world, San Francisco and Los Angeles. Closer to home, Big Sur lies between Hearst Castle and the Monterey Peninsula. Three million visitors a year pass through the Big Sur coast, and we are happy to have them visit all the coastal communities as part of their vacation, but there are only so many visitors a year that the environment of the area can take, and that the lifestyles of the residents of the areas can take, without being diminished.

(MORE)

When an area is federalized, the number of visitors can increase three to four or more times. Last year William Penn Mott made a proposal several times to the press that Highway One from Morro Bay to Carmel be made a National Parkway. He has since withdrawn that idea, but he compared Big Sur to the Blue Ridge Mountain National Parkway in North Carolina and Virginia. In one sense his comparison was valid since Highway One is a long and scenic drive. What he failed to mention was that the Blue Ridge Parkway has 21 million visitors a year and that in the last ten years visitation has risen by six million. Remember that Big Sur has three million a year, and that figure has remained fairly stable over recent years.

We have to consider - and we wish Senator Wilson had considered - just what brings visitors to our area. Obviously our nearness to San Francisco and Los Angeles has a tremendous impact. Then there is our magnificent weather, our spectacular scenery, and the fact that we have the Pacific at our doorstep; there is the beauty and charm of historic buildings and attractions, and the general laid-back ambience of the central coast communities. We are a restful part of the country. That's why people come to us. When you put all of that together you have mecca for visitors. That's wonderful. It provides jobs for our people and income for our communities, but it is not without problems.

Increased visitation means increased pressures for development. It could mean becoming virtually, totally tourist-serving as has happened to communities outside existing federal areas. It means increased stress on water resources, with which most of the coastal communities already have a problem. It means increased road and sewer maintenance, increased crime prevention, and most of all, increased traffic to cope with. Many of the communities on the California coast are already facing an identity crisis - just how much tourist serving can they do and still maintain the ambience of the communities for resident and tourist alike? Their traffic at times approaches, and indeed reaches, gridlock. They cannot take additional traffic, at least until they solve their traffic problems, and even then they will only be able to take that which will come naturally without any federal designation and federal promotion of the area.

But protection of the environment is their and our primary concern. Let me quote from The Environmental Protection Hustle by Bernard J. Frieden of MIT when Frieden is discussing the Point Reyes National Seashore. He notes that, "Now that the federal government has bought the land, however, environmentally concerned residents have discovered that the eco systems are extremely fragile and will not withstand many visitors." Mr. Frieden goes on to quote Gary Giacomini, the County Supervisor for the area, as saying, ten years after that federal area was established,

> "Many of them now think it was a mistake to have the federal recreation areas. They're afraid of having four or five million visitors a year. Federal people have proposed some compromise plans so that this won't be like Yosemite, but any plans that will bring in visitors upset West Marin people. Park Service staff say that since federal taxpayers bought the land, they are entitled to come and use it. They also say they wish they had bought out the three or four towns around Point Reyes so there would be no opposition."

(MORE)

Visitation to the park had increased three-fold when the Supervisor made that statement. It has now reached four-fold.

There is another reason to oppose the Wilson Bill. It is _wrong_ to penalize the people of Big Sur who have protected the area for generations, for having done so. It is the people of Big Sur who, without any governmental mandate at all, devised a plan for the area in 1959 that became part of the County's Master Plan in 1961. That was the nation's _first_ master plan designed specifically for scenic values. No one ordered the residents to do that. The Coastal Commission, and now the federal government, are Johnny-come-latelys to Big Sur preservation. The residents have been involved in preservation on a continuous basis for generations. It was the residents who prevented condominiums from being built there, and a County garbage dump, and mega-developments on two of the area's ranches. It is wrong to threaten them with a bureaucratic overlord and with the possibility, indeed the probability, of condemnation of their homes.

The Local Coastal Plan _will_ protect the private lands from overdevelopment. The new Forest Service Management Plan, now about to have public hearings and public input, _will_ protect the Big Sur portion of the Los Padres Forest from overdevelopment. There is no need for Wilson's bill, and it would be harmful to the entire central coast of California.

Senator Wallop. Thank you, Mr. Brown.

Ms. Backer.

STATEMENT OF SUZANNE MATHIS BACKER, BIG SUR, CA

Ms. Backer. My name is Suzanne Mathis Backer. I am not a property owner of Big Sur, but I am a resident.

As with most controversial bills, petitions are a part of the fight. And yes, we too have petitions. We have 10,000 signatures.

I have with me the petition that has been circulated throughout Big Sur, Monterey County, and San Luis Obispo County. In addition to being signed by residents and property owners and their families all across the United States, thousands of visitors from all over the world have declared their protest to increased Federal intervention in Big Sur. They enjoy their free, unfettered secret hideaway, as it is, and value the hometown ruggedness of the caretakers of the land. Many are married there, perhaps along the breathtaking Pfeiffer Beach or the terrace at Ventana art sunset.

The rustic charm of Deetjin's Big Sur Inn provides an enchanting fireside candlelit dinner, or they might go to their very first Moon party at Nepenthe, the restaurant which was once the haven that Orson Welles had built for Rita Hayworth. This is the spirit that would be lost.

Camping out under the redwoods at the State Park brings them closer to nature, and the stargazing becomes an addiction when looking up into the spectacular array of twinkling lights in the sky. Hiking is one of the best ways to get to know the area, and they might even have to swim through a waterfall to get through as far as they dare up the Big Sur River Gorge. Maybe they stop at one more watering hole—perhaps Ferwood or River Inn, and chat with the locals about old time Big Sur. For some real entertainment, they might catch Kevin Parsons reciting a poem or party with one of the winning Big Sur baseball teams, celebrating a victory.

We like the tourists and the tourists like Big Sur the way it is. The current balance of Federal, State, and local input provides a choice for the people to make their Big Sur experience a memorable one.

I have attached the petition to my testimony and I did want to address my next section to Senator Wilson, but I see that he has left. I feel that this meeting should be in Monterey County right now. We need to keep this at a local level so that we do not have creeping federalization.

Thank you.

[The prepared statement of Ms. Backer follows:]

Testimony For Senate Subcommittee Hearing on Public Lands, Reserved Water, and Resource Conservation

July 31, 1986

Suzanne Mathis Backer

My name is Suzanne Mathis Backer. I am not a property owner of Big Sur, but I am a resident. ·

As with most controversial bills, petitions are a part of the fight. And yes, we too have petitions. 10,000 signatures!

I have with me the petition that has been circulated throughout Big Sur, Monterey County, and San Luis Obispo County. In addition to being signed by residents and property owners and their families all across the United States, THOUSANDS of visitors from all over the world have declared their protest to increased federal intervention in Big Sur. They enjoy their free, unfettered "secret-hideaway" as it is, and value the hometown ruggedness of the caretakers of the land. Many are married there-perhaps along the breathtaking Pfeiffer Beach or the terrace at Ventana art sunset. The rustic charm of Deetjin's Big Sur Inn provides an enchanting fireside candlelit dinner, or they might go to their very first Moon party at Nepenthe, the restaurant which was once the haven that Orson Welles had built for Rita Hayworth. This is the spirit that would be lost.

Camping out under the redwoods at the State Park brings them closer to nature, and the star gazing becomes an addiction when looking up into the spectacular array of twinkling lights in the sky. Hiking is one of the best ways to get to know the area, and they might even have to swim through a waterfall to get as far as they dare up the Big Sur River Gorge. Maybe they stop at one more watering hole- perhaps Ferwood or River Inn, and chat with the locals about old time Big Sur. For some real entertainment, they might catch Kevin Parsons reciting a poem, or party with one of the winning Big Sur baseball teams, celebrating a victory.

We like the tourists, and the tourists like Big Sur - the way it is. The current balance of federal, State, and local imput provides a choice for the people to make their Big Sur experience a memorable one.

In closing, I would like to read the petition as signed by over 10,000 people: (petition attached).

Thank You

A PETITION TO ALL ELECTED OFFICIALS SERVING BIG SUR

We, the undersigned visitors to the Big Sur Coast, strongly petition that there be no increase in the level of federal intervention and involvement in Big Sur.

We believe the preservation of the Big Sur Coast will be continued through the present historic balance of private, state and federal stewardship. The conservation and environmental concerns of the Big Sur citizens and the restrictions presently imposed by the most stringent Local Coastal Plan in the nation protect Big Sur from over-development.

A federal designation, with its resultant doubling or tripling of visitors to the Big Sur Coast, would promote the destruction of Big Sur's delicate environment and would mark the end of the free, unstructured rural area which lends itself to the very personal and individual experience we, as visitors to the coast, currently enjoy.

We respectfully request that each of you, as our elected representatives, reject any proposals which are designed to increase the role of the federal involvement in the Big Sur area of Monterey County. Further, we ask that you advise us, in writing, of your response to our request. We are determined to safeguard the coast for future generations.

SIGNATURE	PRINTED NAME	MAILING ADDRESS

Senator **Wallop**. If I promise not to tell anybody, can I come and look? [Laughter.]

Mr. David Backer.

Ms. **Backer**. And then slowly move on.

STATEMENT OF DAVID BACKER, BIG SUR, CA

Mr. **Backer**. Thank you. My name is David Backer. I am a resident and a grange member of Big Sur. I would like to read part of a letter from the master of the California State Grange addressed to the Honorable Malcolm Wallop.

> Dear Senator **Wallop**: The California State Grange, representing nearly 40,000 family farmers and rural Californians, opposes S. 2159—Wilson's "creation of the Big Sur National Forest scenic area."
>
> The California State Grange has long supported local control over Federal and State control in management practices and has continuously opposed removing taxable land by Federal action for the purpose of Federal parks or wilderness areas.

The letter goes on and is signed "David Austin, Master, California State Grange."

I would like to read the first part of a letter from the National Grange, too, if I may. The letter says:

> Dear Senator **Wallop**: On July 31, 1986, the Subcommittee on Public Lands, Reserved Water and Resource Conservation will conduct a public hearing on S. 2159, a bill to designate the Big Sur National Forest scenic area. On behalf of nearly 400,000 members of the National Grange, I urge you to strongly oppose this measure and to forestall any further Federal intrusion into the coastal protection activities of concerned local residents and the State of California.
>
> The Big Sur area is certainy one of the most spectacular scenic areas in the United States. The value of that natural resource has not been lost on the residents of that area who value this property and its environment and who have elected to live there because of its natural beauty.
>
> Last November, after years of planning, compromise, and hearings, both the Monterey County Board of Supervisors and California Coastal Commission adopted one of the most progressive and protective land use plans in the Nation for Big Sur.
>
> This local and State initiative will protect the Big Sur area from unnecessary development and the enjoyment of all Americans. No Federal involvement was necessary for this to occur.

It goes on and is signed "Edward Anderson, National Master."

Now speaking personally, in the fifties my grandparents came to Big Sur. My grandfather loved this land and passed this love to the rest of the family. My two sons were born at home on this land. My grandfather is dead and buried on this land, but the land continues to be loved, maintained, and protected.

With all due respect to good intentions of Senator Wilson, this bill is bad legislation. This bill will destroy Big Sur, as it is. This bill will waste Federal money that is needed elsewhere. This bill is wasting everybody's time.

Thank you.

[The prepared statement of Mr. Backer follows:]

Statement by David Backer
before the Subcommittee on Public Lands, Reserved Water and Resource Conservation
July 31, 1986

My name is David Backer. I am a resident and a Grange Member of Big Sur. I would like to read a letter from the Master of the California State Grange addressed to The Honorable Malcolm Wallop.

Dear Senator Wallop,

The California State Grange, representing nearly 40,000 family farmers and rural Californians, OPPOSES S 2159 - Wilson "Creation of Big Sur National Forest Scenic Area." The California State Grange has long supported local control over federal or state control in management practices and has continuously opposed removing taxable land by Federal action for the purpose of Federal parks or wilderness areas.

The Big Sur area is already well protected by the natural landscape of the land, by the restraints of the people of the area who value property and its environment and have by choice elected to live there because of its natural beauty; by county zoning and by the California Coastal Zone Conservation Act of 1972; by passing Proposition 20 through the initiative process to protect the California Coastline, and recent enactment of the California Coastal Act of 1976 by the California State Legislature.

With this protection, there is little need for further controls or interference by the federal government. It is clear from past experiences that when the federal government becomes involved in acquiring or managing land for preservation purposes, the people and communities within the boundaries become severely infringed.

The California State Grange, committed to local control and management, supports the efforts of Big Sur Grange #472 to retain local control of the the Big Sur regions within the scope of the Caliifornia Coastal Act of 1976, or a similar protective State law.

Sincerely,

David Austin, Master
California State Grange

Now speaking personally, in the 50s my Grandparents came to Big Sur. My Grandfather loved the land, and passed this love to the rest of the family. My two sons were born at home on this land. My Grandfather is Dead and buried on this land. But the land continues to be loved, maintained and protected.

This bill will destroy Big Sur as it is.
This bill will waste federal money that is needed elsewhere.
This bill is wasting everybody's time.

DAVID L. AUSTIN
MASTER

MARJORIE BROWN
SECRETARY

EXECUTIVE COMMITTEE
BOB CLOUSE
JOE VICTORINE
STEPHEN TAIT

CALIFORNIA STATE GRANGE

◆

OFFICE OF MASTER
2101 STOCKTON BLVD.
SACRAMENTO, CALIFORNIA 95817
Phone (916) 454-5805

July 17, 1986

The Honorable Malcolm Wallop, Chairman
United States Senator
Subcommittee on Public Lands, Reserved
Water and Resource Conservation
301 Dirksen SOB
Washington, DC. 20510

Dear Senator Wallop

The California State Grange, representing nearly 40,000 family farmers and rural Californians, OPPOSES S 2159-Wilson: "Creation of Big Sur National Forest Scenic Area." The California State Grange has long supported local control over federal or state control in management practices and has continuously opposed removing taxable land by Federal action for the purpose of Federal parks or wilderness areas.

The Big Sur area is already well protected by the natural landscape of the land, by the restraints of the people of the area who value property and its environment, and have by choice elected to live there because of its natural beauty; by county zoning and by the California Coastal Zone Conservation Act of 1972; by passing Proposition 20 through the initiative process to protect the California Coastline, and recent enactment of the California Coastal Act of 1976 by the California State legislature.

With this protection, there is little need for further controls or interference by the federal government. It is clear from past experiences that when the federal government become involved in acquiring or managing land for preservation purposes, the people and communities within the boundaries become severely infringed.

The California State Grange, committed to local control and management, supports the efforts of Big Sur Grange #742 to retain local control of the Big Sur regions within the scope of the California Coastal Act of 1976, or a similar protective State law.

Sincerely,

David Austin

David Austin, Master
California State Grange

DA/nsf

cc. Senator Pete Wilson
The National Grange

In Essentials, Unity . . . In Non Essentials, Liberty . . . In All Things, Charity

Senator WALLOP. Thank you, Mr. Backer.

Mr. Greathouse.

STATEMENT OF JIM GREATHOUSE, CAMBRIA, CA

Mr. GREATHOUSE. My name is Jim Greathouse. I am a registered civil engineer and registered landscape architect, and I love this area.

San Luis Obispo is the southern gateway to the Big Sur coast. It is predominantly Republican country and many Republicans in San Luis Obispo County are appalled that their Republican Senator would advocate an unnecessary increase in Federal Government spending.

When the sponsors of the Senate bill are from the same State but opposite sides of the aisle, the bill must either represent apple pie and motherhood, or one of the Senators has compromised his principles.

S. 2159 is not an example of apple pie or motherhood. It represents the abdication by Senator Wilson from the Republican philosophy of less, not more, Federal Government control in the lives of the people.

The Republican Central Committee of San Luis Obispo County at its meeting on May 21, voted to support resolutions by the California Federation of Republican Women State Board and the northern division and a resolution by the Monterey County Republican Central Committee in opposition to S. 2159.

We plan to make our feelings abundantly clear to Senator Cranston on November 4. Unfortunately, we are going to have to wait until the next Republican primary to get Senator Wilson's attention.

We have a beautiful coastline that we love and are proud to share it with the visitors from all over the world. It is that way because the people who live there do care about it and for it. If you attempt to remove the caretakers and replace them with the Federal Government, you will surely be guilty of not only destroying the lives of those individuals but the beautiful lands that they have protected as well.

We implore the members of this influential committee, regardless of political affiliation, to heed the wisdom of the simple phrase, "If it ain't broke, don't fix it."

Senator WALLOP. Thank you, Mr. Greathouse.

Dr. Wallyn.

STATEMENT OF DR. CAROL WALLYN, MONTEREY, CA

Dr. WALLYN. Mr. Chairman, my name is Dr. Carol Wallyn, a Ph.D., and I reside in the Carmel Highlands, that is the community just north of Big Sur.

I am opposed to S. 2159, and the Carmel Highlands Association is also opposed to the Senate bill.

What substantiates my opposition to the bill was reported in the editorial of the Sunday San Francisco Chronicle-Examiner on July 27, 1986. It is the largest circulated paper in northern California.

I quote: "Wilson's bill strikes cold fear in the residents of the coast, with its vague and flexible provisions, coupled with excessive powers vested in one man. That official, the Secretary of Agriculture, would operate the National Forest Area along the coast much like a national park, but would be empowered to change boundaries and expand Federal lands. Hence, the billed caused an uprising down the coast of citizens fearing federalization that in the future might squeeze them out and allow a distant authority to run the whole area. The thunderous public outcry has caused us to alter our own position on the question.

"While we applaud Wilson's intent to prohibit oil and gas drilling offshore in this sector, his onshore conception imposes a complex Federal presence that is unnecessary and unwelcome."

I researched how unnecessary and unwelcome that presence is with the residents of the only national scenic area in California—Mono Lake. This will be the second one. They described to me the implied guarantees of the legislation and then contrasted them to the realities of its implementation.

Only created in 1984, the boundaries of the Mono Lake scenic area have already changed. This is legal. The grazing privileges, and they are privileges once implied to be guaranteed, are restricted and in part denied. But it is legal.

Funds promised for maintenance have provided only a part-time fire technician. But this is legal. There was no advertisement of the area as was implied, but Sunset Magazine advertised and the visitorship has greatly increased. But this is legal.

There is implied guaranteed advisory input from the residents. It is minimal, has no influence, but that is legal, too. The residents relate to that the Tuffa Towers—they are a geological structure—are being climbed upon unchecked. Campers dump their holding tanks at will, unchecked, but this is legal.

The Big Sur coast is not ready for the same travesty, no matter how legal. I respectfully request that you not pass or even table this bill but give us some relief and free us from its shadow.

Thank you.

Senator Wallop. Thank you, Dr. Wallyn.

Mr. Parks.

STATEMENT OF BENJAMIN PARKS, WASHINGTON REPRESENTATIVE, NATIONAL INHOLDERS ASSOCIATION

Mr. Parks. I would like to thank the subcommittee for this opportunity to testify in opposition to the Big Sur National Scenic Area Act before this subcommittee. My name is Ben Parks, and I am the Washington representative for the National Inholders Association. The NIA has 13,000 members in 50 States and is the leading organization in the Nation which represents 1.2 million identified inholders.

Our association represents families and individuals who own land or equity interest in land within or adjacent to the boundaries of federally managed areas. We actively seek to protect the rights of families and communities from unwise and unnecessary acquisition as well as the over-regulation that has tragically led to the destruction of small communities and rural life-styles.

Over the years, there have been many proposals to federalize the Big Sur because certain Congressmen believed that the local people could not protect the scenic beauty of the area. Even Congressman Leon Panetta, who several years ago sponsored a bill to federalize the Big Sur in his district, now believes that the good efforts of citizens, property owners, environmentalists, and local leaders can best preserve the beauty of Big Sur. As of today, all local and State representatives within the Big Sur area are opposed to S. 2159.

Most of our members were shocked when Senator Wilson introduced S. 2159 last March without notice to local or State representatives or to affected local landowners. The reason for this shock was not that the local people were not consulted but the fact that when Senator Wilson was running for the Senate in 1982, he stated in a letter to Mr. Jim Josoff that:

> I can tell you that I do not support the federalization of this area and applaud Senator Hayakawa's effort to stop it. I would feel much more comfortable in leaving the decision on the future of this area in the hands of the people on the local level who know it, cherish it, and, I believe, have its best interests in mind, rather than to turn it over to the bureaucrats. I don't believe that those in Washington are so much wiser that they have to make these decisions for us.

We do not understand why the Senator changed his position, but we feel that it would have been fairer to give the local coastal plan for Big Sur a chance to work before introducing any legislation to federalize the area.

Most of the people from Big Sur you will hear or have heard from today are environmentalists—whether or not they are members of national environmental organizations. These people want to protect the Big Sur and its fragile ecosystem.

Presently, approximately 3 million people pass through Big Sur annually. Our association fears that a National Forest Scenic Area designation would greatly increase the tourist traffic as well as damage the ecosystem. It is ironic that perhaps a well-intended Federal preservation effort could actually lead to the very damage this legislation is to prevent.

In summation, the Big Sur deserves our highest esteem for its natural beauty. Let the local people keep it that way.

Thank you.

[The prepared statement of Mr. Parks follows:]

NATIONAL INHOLDERS ASSOCIATION

National Office:
P.O. Box 588 • 30 W. Thomson
Sonoma, California 95476 (707) 996-5334

Legislative Office:
1919 Pennsylvania Ave. N.W., Suite 300
Washington, D.C. 20006 (202) 293-0163

STATEMENT OF THE NATIONAL INHOLDERS ASSOCIATION
CONCERNING S.2159
BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER
& RESOURCE CONSERVATION
OF THE
U.S. SENATE ENERGY & NATURAL RESOURCES COMMITTEE

July 31, 1986

I would like to thank the subcommittee for this opportunity to testify in opposition to the Big Sur National Scenic Area Act (S.2159) before this subcommittee. My name is Ben Parks and I am the Washington Representative for the National Inholders Association (NIA). The NIA has 13,000 members in 50 states and is the leading organization in the nation which represents 1.2 million identified inholders. Our Association represents families and individuals who own land or equity interest in land within or adjacent to the boundaries of federally managed areas. We actively seek to protect the rights of families and communities from unwise and unnecessary acquisition as well as the over-regulation that has tragically led to the destruction of small communities and rural lifestyles.

Over the years, there have been many proposals to federalize the Big Sur because certain congressmen believed that the local people could not protect the scenic beauty of the area. Even Congressman Leon Panetta, who several years ago sponsored a bill to federalize the Big Sur in his district, now believes that the good efforts of citizens, property owners, environmentalists and local leaders can best preserve the beauty of Big Sur. As of today, all local and state representatives within the Big Sur area are opposed to S.2159.

Most of our members were shocked when Senator Wilson introduced S.2159 last March without notice to local or state representatives or to affected local landowners. The reason for this shock was not that the local people were not consulted but the fact that when Senator Wilson was running for the Senate in 1982, he stated in a letter to Mr. Jim Josoff that:

> I can tell you that I do not support the federalization of this area and appaud Senator Hayakawa's effort to stop it. . . .

> I would feel much more comfortable in leaving the decision on the future of this area in the hands of the people on the local level who know it, cherish it and I believe, have its best interests in mind, rather than to turn it over to the bureaucrats . . . I don't believe that those in Washington are so much wiser that they have to make these decisions for us.
>
> (March 10, 1982)

We do not understand why the Senator changed his position but we feel that it would have been fairer to give the local coastal plan for Big Sur a chance to work before introducing any legislation to federalize the area.

Many of our members have worked for years to implement local land use plans which would coordinate activities at the federal, state and local levels. This bill seems to override all the work which the local citizens have tried to put in place by having the Secretary of Agriculture make the final decision as to condemnation of land, state and local regulation, recreational uses and other activities. The NIA believes that it is better to involve the local people in a land ethic in which they manage the land, pay for the costs and protect the area. Or, do we rather reward them for their stewardship by wiping them out? The local citizens of Big Sur have worked closely with the Forest Service and state agencies to form a preservation partnership. If this piece of legislation is passed, this partnership will be broken.

Most of the people from Big Sur you will hear or have heard from today are environmentalists -- whether or not they are members of national environmental organizations. These people want to protect the Big Sur and its fragile ecosystem. Presently, approximately three million people pass through Big Sur annually. Our association fears that a "National Forest Scenic Area" designation would greatly increase the tourist traffic as well as damage the ecosystem. It is ironic that perhaps a well-intended federal preservation effort could actually lead to the very damage this legislation is to prevent.

Finally, in an era of tight budget and limited federal dollars, how can the federal government afford this new project when the U.S. Forest Service does not have enough money to care for what it has today? How much will it cost the federal government and the American taxpayer for planning and planning assistance, economic development, plan implementation and enforcement, land acquisition and development of recreational and other public use facilities in the Big Sur?

The Big Sur deserves our highest esteem for its natural beauty. Let the local people keep it that way.

Thank you.

Senator **Wallop**. Thank you, Mr. Parks.

Dr. Wallyn, one, thank you for telling me of an experience that is taking place in Mono Lake. That is an area in which the supervisors came and requested the designation. We have not heard of the problems there, but we will be happy to inquire.

Dr. **Wallyn**. I wish you would. I really could not tell you in public—I would be embarrassed to tell you in public what the residents told me on the phone. I calmed it down a lot. They are very disappointed.

Senator **Wallop**. Well, it is of interest, and I appreciate knowing about it.

I also want to express my appreciation to this panel and those that preceded it for the understanding of the 3-minute rule. I know how short that time is. But we did manage to get you all heard.

The record will remain open for statements for 3 weeks.

Ms. **Backer**. Excuse me. I was wondering since I do not believe I used up all of my time if I could direct two statements toward Senator Wilson?

Senator **Wallop**. You are a sly one. [Laughter.]

But the answer is of course.

Ms. **Backer**. Thank you.

Earlier you briefly compared the Los Padres—the titles of the Los Padres National Forest and the Big Sur National Forest Scenic Area Act, you asked how long the title had been Los Padres National Forest or what have you. I do not think that is a fair comparison, since Los Padres is not a city and it is not a community already established. You would be putting just a flashing amber light in front of Big Sur by calling it the Big Sur National Scenic Area Act National Forest.

Also another concern was you keep using words like "probably," "maybe," "my intent," "minor changes in the boundaries," "moderate increase in tourists." Those are the types of words that lead me to believe that the Federal Government could do anything that they want to. And this is a chance that we just cannot take. The Federal Government would own the pink slip.

Senator **Wallop**. Thank you. Again, my thanks to all who participated.

Before I close, let me again state that the record will remain open for 3 weeks. There is room for you to expand upon your testimony or for others to contribute testimony or to respond to questions which the committee may address. I appreciate it.

Senator Wilson.

Senator **Wilson**. Thank you very much, Mr. Chairman. I thank you and the witnesses for their patience. It has been a long morning, but as far as I am concerned, a very useful one.

I have no questions of these witnesses, but I do have some observations—different ones to different members.

To Mr. Brown I would simply say that I fail to understand how a bill that explicitly by its terms limits development and restricts it, encourages it.

To Mr. Greathouse, sir, I will have to tell you that I have been threatened by experts over 20 years in public life; in fact, I have even enjoyed it from time to time. It does not produce the desired effect. I entered public life 20 years ago. I have survived doing what I thought right even when I knew it was not popular. When the day comes that I cannot do that, then I will happily return to private life, which is a lot easier and certainly more profitable.

Let me say to Mr. Backer, I mentioned earlier I was impressed with the sincerity of the witnesses. Yours shone through, and I thank you for the honest emotion that you felt. It is something to be proud of, not to be ashamed of. And you need not ask anybody to excuse you because you had a catch in your throat. I have experienced the same thing myself on other occasions.

To Ms. Backer, I thought I had stated the case with almost no qualification whatever this morning. I do not find "maybe," "probably" in either what I said this morning or in the text of the bill. I think it is pretty specific. May I just ask of you that you do me the kindness of comparing the point paper and the response to it because both cite the bill, the provisions.

Ms. **Backer**. The problem is that I do not think the point paper will be law.

Senator **Wilson**. Well, the point paper should not be, because the point paper that I am referring to is the one from the opponents.

Ms. **Backer**. Right.

Senator **Wilson**. It makes statements about the bill that are simply incorrect. What I want you to do is read that and read the response to it.

Ms. **Backer**. I will. I will do that. If you will also read the literature that we put in the black folder.

Senator **Wilson**. OK. That's a fair deal.

Ms. **Backer**. Fair trade.

Senator **Wilson**. To Mr. Parks—Mr. Parks, I thank you because several people have made reference to the 1982 letter. Let me assure you that I think that what I said then makes absolute sense today, and I subscribe to it. But what I think you need to understand is that federalization, as it was explained to me then by those opposing it, was what had been presented in 1980 a sweeping wholesale condemnation with greatly expanded new Federal ownership, total Federal management—not what several witnesses today have described as a totally different approach, a minimal Federal presence. So I will tell you that everything that I said in the letter I stand by now and do not feel that this, in any way, contradicts.

Mr. Chairman, having thanked you for your patience, I am loath to try it further, but let me just close by making a couple of observations that I really think need making because I cannot help having been struck by two remarkable ironies, at least they seem remarkable to me.

The first is that there has been, if not quite universal acceptance, there has been widespread enthusiastic applause for and support of the land use plan, which I join. And yet no one this morning has said how they would protect it, how this thing that is so valuable should be in fact kept. And I will simply suggest to them that without the answer to that question, they are in great peril of seeing the plan lost and Big Sur being done irreparable injury.

I would love to be wrong. The last thing in the world that I want is 25 years from now to look back and say they should have listened, when there is a Los Padres National Forest still intact, but the adjoining 55,000 acres has been very sadly overdeveloped.

The second point which is really related, is that I cannot help but be struck by the irony that there is such widespread distrust, not of this Secretary—I do not think it is Dick Lyng—but of any Secretary in any administration. For any remote, insensitive Federal bureaucrat, there is that express fervent distrust. Yet the stated preference is for no legislation which means that you have to trust him without any legislation and therefore without any restraint of law or any direction in the law as this bill would provide; with this bill he is to abide in his administration of the Federal Forest Service lands by the land use plan's permitted uses. Without the legislation, he has carte blanche. He can do what he will in his own discretion and he can let there be logging, he can permit mining, he can permit resort development, he can have hell break loose, and he can do it and be in conformity with the law—not under this law, but under existing law.

Now think about that, friends. If you do not trust him, then why in the world are you trusting him with no restraints whatever?

Ms. BACKER. We could talk about this in Monterey County, sir.

Senator WILSON. We can talk about it right here because the principle will not change any.

Ms. BACKER. We prefer locally, if you don't mind. And we support your efforts. If you want to help us, you could come to Monterey County and we could discuss it further.

Senator WILSON. Mr. Chairman, I doubtless will, as I have before, but I think you have had enough for today. I thank you, I thank the witnesses.

Senator WALLOP. I promise to sneak in under cover of darkness and not add to the 3 million visitors. [Laughter.]

I want to thank everybody very much for your patience and your understanding of my needs. The committee stands adjourned.

[Whereupon at 12:46 p.m., the hearing was adjourned.]

[Due to the voluminous nature of additional statements and communications received, they have been retained in subcommittee files.]

○